

CARON
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Ontario

ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 316

DATE: Wednesday, May 29, 1991

BEFORE:

A. KOVEN Chairman

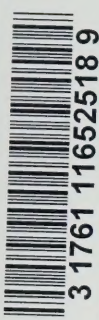
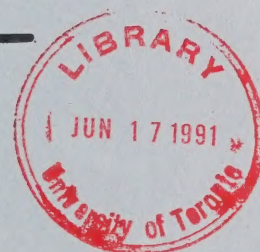
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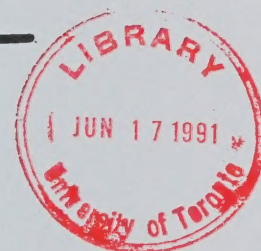
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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER of a Notice by The Honourable
Jim Bradley, Minister of the Environment,
requiring the Environmental Assessment
Board to hold a hearing with respect to a
Class Environmental Assessment (No.
NR-AA-30) of an undertaking by the Ministry
of Natural Resources for the activity of
Timber Management on Crown Lands in
Ontario.

Hearing held at the Inn of the Woods Hotel,
470 First Avenue South, Kenora, Ontario,
on Wednesday, May 29th, 1991, commencing at
9:00 a.m.

VOLUME 316

BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member

A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	MINISTRY OF NATURAL
MS. C. BLASTORAH)	RESOURCES
MS. K. MURPHY)	
MR. B. CAMPBELL)	
MS. J. SEABORN)	MINISTRY OF ENVIRONMENT
MS. N. GILLESPIE)	
MR. R. TUER, Q.C.)	
MR. R. COSMAN)	ONTARIO FOREST INDUSTRY
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MR. P.R. CASSIDY)	
MR. H. TURKSTRA		ENVIRONMENTAL ASSESSMENT BOARD
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MR. J.F. CASTRILLI)	
MS. M. SWENARCHUK)	FORESTS FOR TOMORROW
MR. R. LINDGREN)	
MS. B. SOLANDT-MAXWELL)	
MR. D. COLBORNE)	GRAND COUNCIL TREATY #3
MS. S.V. BAIR-MUIRHEAD)	
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MR. R. REILLY)	ABORIGINAL ASSOCIATION
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MS. L. NICHOLLS)	LIMITED and SPRUCE FALLS
MR. D. WOOD)	POWER & PAPER COMPANY
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MR. R. BARNES)	ASSOCIATION
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MR. B. McKERCHER)	OUTFITTERS ASSOCIATION
MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD)	
MR. J.W. ERICKSON, Q.C.)		RED LAKE-EAR FALLS JOINT
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MR. D. SCOTT)	NORTHWESTERN ONTARIO
MR. J.S. TAYLOR)	ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL)	GREAT LAKES FOREST
MR. S.M. MAKUCH)	PRODUCTS
MR. D. CURTIS)	ONTARIO PROFESSIONAL
MR. J. EBBS)	FORESTERS ASSOCIATION
MR. D. KING		VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. H. GRAHAM		CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN		DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC		MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES		ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI		BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY

APPEARANCES (Cont'd):

MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON
MR. C. BRUNETTA	NORTHWESTERN ONTARIO TOURISM ASSOCIATION

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I N D E X O F E X H I B I T S

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1865	MNR Interrogatory Question Nos. 2, 6, 7, 9 and 19.	55854
1866	Document entitled: Review of Indian Forest Resources Management and Development, authored by John S. McTavish, dated March, 1987.	55862
1867	Panel 3 witness statement Grand Council Treaty No. 3	55863

1 ---Upon commencing at 9:15 a.m.

2 PAUL WATTS,
3 RON SIMMONS,
4 ROY CARPENTER,
5 CHIEF WILLIE WILSON,
6 FRANCIS KAVANAUGH,
7 ROCKY SEYMOUR, Resumed

8 MR. COLBORNE: Madam Chairman, just
9 before we begin, I would like to explain why we're a
10 little delayed this morning.

11 As I mentioned yesterday I thought I
12 would be starting Panel 3 to accommodate Chief Barnie
13 Petiquan who could only be here at 9:00 a.m., but
14 unfortunately he couldn't make it, so while we were
15 determining that we were delayed, but what that means
16 in terms of process is that we can now conclude Panel 2
17 and then I will be ready to commence Panel 3 following
18 the conclusion of Panel 2.

19 MADAM CHAIR: Thank you, Mr. Colborne.

20 Would you like to continue, Mr. Freidin?

21 MR. FREIDIN: Yes.

22 CONTINUED CROSS-EXAMINATION BY MR. FREIDIN:

23 Q. Chief Wilson or Mr. Kavanaugh, when
24 you get a timber management plan which is prepared by
25 the IFDP and it's approved by the band, is there any
approval required by the Treaty No. 3 organization
itself?

1 CHIEF WILSON: A. No, sir.

2 Q. Okay. Chief Wilson, you made
3 reference in your evidence to Bill C-31 and its effect
4 of having people wanting to -- or becoming members of
5 the reserve. That's federal legislation; am I correct?

6 A. Yes.

7 Q. In terms of the past practices which
8 have occurred on Indian reserves in terms of timber
9 management, am I correct that the Ontario government
10 had no authority in relation to timber management
11 activities on reserves?

12 A. I'm not sure if the word authority, I
13 think that given the fact that they benefit from the
14 resources of the timber through -- by going through the
15 purchaser or the user, benefits from the taxation. So
16 I believe that's sort of a misconception.

17 Q. There's a connection there, but they
18 had no control over what was harvested, how it was
19 harvested, or how the rehabilitation did or did not
20 occur; is that correct?

21 A. No.

22 Q. That is correct?

23 A. Yes, it is correct.

24 Q. Yes. Thank you.

25 MR. FREIDIN: Now, Mr. Watts is not here

1 and he might be the person that should answer this
2 question. Is he going to be here this morning?

3 MR. COLBORNE: I expect so. He's
4 commuting from Wabigoon, as I mentioned yesterday, so--

5 MR. FREIDIN: Okay.

6 MR. COLBORNE: --he might be delayed.

7 MR. FREIDIN: Q. Chief Wilson, you
8 stated in your evidence that your reserve has the
9 Manitou Lumber Company?

10 CHIEF WILSON: A. Yes.

11 Q. You indicated in your evidence that
12 you had no allocation of timber. It's my
13 understanding, sir, that Manitou Lumber indeed does
14 have a district cutting licence at the present time?

15 A. No.

16 Q. Has it had a district cutting licence
17 in the past?

18 A. Yes.

19 Q. How many years did it have a district
20 cutting licence?

21 A. We had it for approximately four
22 years.

23 Q. And can you tell me the approximate
24 amount of that in cubic metres, cords or whatever.

25 A. Okay. A DCL has an allowable cut of

1 2,000 cords.

2 Q. Am I correct that the joint venture
3 that you referred to that you've entered into with a
4 non-Native group are presently in the process of
5 obtaining an Order-In-Council licence?

6 A. We're in discussion about the
7 possibility, we're not into the stages of making any
8 formal application.

9 Q. My understanding is that there's a
10 formal application for an Order-in-Council licence by
11 that joint venture?

12 A. I'm not sure who would have signed it
13 because the understanding we had with the people we're
14 dealing with is that the band would be the applicant
15 and we haven't made application.

16 Q. If the Order-in-Council licence
17 provided for 19,582 cubic metres of conifer, would that
18 be a substantial amount in comparison to the amount of
19 your individual DCLs?

20 A. Oh yes.

21 Q. If the Order-in-Council licence was
22 issued and it provided for 7,526 cubic metres of
23 hardwood, would that again be substantially more than
24 what you have received in the past?

25 A. Yes.

1 Q. And you mentioned having these DCLs.
2 What years did the Manitou Lumber have an allocation by
3 way of a DCL?

4 A. Around the mid-70s.

5 Q. My information is that Manitou Lumber
6 had DCLs within the last five years?

7 A. Manitou Lumber is not owned by the
8 Rainy River Band, incidentally, we don't have a DCL.

9 Q. All right. Maybe I'm using the wrong
10 term. Is there anybody associated with the reserve or
11 the community that has had a DCL where the wood has
12 been used solely for the purposes of Manitou Lumber?

13 A. Perhaps maybe if I draw you a picture
14 it will help you understand where Manitou Lumber fits
15 in. Manitou Lumber is the operating company of the
16 sawmill. Long Sault Lumber is the owner of the
17 equipment, the Rainy River Band owns Long Sault Lumber
18 and is also the land holder.

19 Q. And who in fact has obtained district
20 cutting licences; have any of those three entities
21 obtained district cutting licences in the last four or
22 or five years?

23 A. The Rainy River -- not in the last
24 four or five years, no.

25 Q. I'm just missing -- I only have about

1 two or three more questions, if I can find them.

2 During your evidence, particularly I
3 think yesterday when there was a discussion about the
4 involvement of Indian people as loggers off the reserve
5 I got the impression that you were all suggesting that
6 there really aren't very many Indian loggers who work
7 off the reserve.

8 Was that the suggestion that you were
9 attempting to convey; is that the message you were
10 attempting to convey?

11 A. That is the message that's there.

12 Q. Are you aware of a company known as
13 Devlin Lumber?

14 A. Yes, and I'm also aware of its
15 condition now financially.

16 Q. All right. Is it partially owned by
17 an Indian band?

18 A. Yes, it's partially owned by the
19 Grassy Narrows Band and it's just recently been
20 acquired.

21 Q. And how long were they in business?

22 A. Within the last year.

23 Q. They went out of business last year?

24 A. No, they're still in business right
25 now, but there's a red tag up.

1 Q. I understand that they engage a
2 number of Indian loggers off-reserve?

3 A. Off-reserve?

4 Q. Yes. Mr. Kavanaugh?

5 MR. KAVANAUGH: A. I made application
6 last year for some cutting areas and I in fact was
7 referred to Devlin Timber who were going to purchase
8 lumber we were going to cut.

9 We had an agreement, a contract, we had
10 everything in place, then for some reason there was
11 internal squabbings with the internal workings of the
12 organization that the deal somehow fell through, we
13 never went through what we had agreed upon, and
14 subsequently there was a fire at the plant so there has
15 been no activity in that area.

16 Q. Thank you. It's my information that
17 there is a holder of an Order-in-Council licence in the
18 Kenora Crown management unit by the name of Ed Wilson
19 and most of his loggers who are working off the reserve
20 are Indians.

21 CHIEF WILSON: A. Perhaps for the simple
22 reason that there is investment from a reserve it's
23 assumed that you have Indian labour too.

24 Q. All right. What I'm getting at -- I
25 mean, I just got the impression, and I didn't want the

1 Board to go away with the impression that somehow
2 there's only one or two or four or five Indians who
3 work as loggers off the reserve, because I have a list
4 here where, for instance, Grassy Narrows has an
5 Order-in-Council licence, for instance, that says they
6 can cut 2,000 cords a year.

7 They've got third party contracts with
8 Boise that says they can supply up to 3,000 cords a
9 year, I've got information that Whitedog have 3,500
10 cords minimum that they've been cutting for the last
11 five years, that Shoal Lake Bands have had licenses for
12 many years in the past, as is the case with Wabigoon
13 and Eagle Lake.

14 And my understanding is that all of those
15 licences are being cut by Indian labour. And if that
16 is the case, it just doesn't seem consistent for you
17 then to suggest that there really are very, very few -
18 you may want more, I'm not denying that - but I don't
19 want to have the wrong impression left for the Board.

20 A. Okay. As well, individually, as you
21 see sitting here right now, the reserves that you have
22 made reference to I would imagine they're going to come
23 on the panel as individuals.

24 We as the IF -- Indian Forestry
25 Development Program, we cannot speak for them, we can

1 only speak as individuals in our own rights.

2 Q. Okay. I think that's what I'll do
3 then, I'll deal with it on that basis.

4 MR. COLBORNE: We will indeed be hearing
5 from the individual bands, and the fact that Mr.
6 Freidin mentioned Grassy Narrows and Whitedog first,
7 and that they're probably the most important examples
8 for him, probably underline what the Panel 4 evidence
9 will be; and, that is, that if you don't have a claim
10 and a settlement you don't have anything.

11 Because I think we will hear that the
12 reason why those two reserves have something on the go
13 is simply because they were unfortunate enough to be
14 hurt badly enough that they had to be -- that they
15 became qualified for some kind of compensation.

16 MR. MARTEL: Are we going to, at the end
17 of the day, Mr. Colborne, somewhere have a list of
18 total numbers, a figure?

19 I tried to get from MNR at least two
20 years ago a real handle on the number of Indian people
21 who are working for MNR - I don't care where - a final
22 figure so we get a real handle.

23 Because in your Panel 5 evidence it says .
24 there's only 45 people, the panel on -- I don't mean
25 just MNR, I'm talking about everywhere, you know, I'm

1 talking about hired by their own companies, so we get a
2 true picture of what the situation is.

3 MR. COLBORNE: My information is that we
4 are not going to have that, that we to have put it
5 together piecemeal because it simply does not exist,
6 nobody has ever assembled that information and once
7 they do it's very quickly out of date.

8 MR. MARTEL: Because, you see, in one of
9 your panels I think it says 4.3 or 45 jobs and, you
10 know, it just doesn't give us a true picture.

11 MR. COLBORNE: Actually I might ask this
12 panel in re-examination, I had a note that I might,
13 about that because the census information that you have
14 referred to is quite intriguing.

15 For instance, it shows that in the year
16 1986 all 15 Indians in forestry in the Kenora District
17 were at the Rat Portage reserve, which is Mr. Seymour's
18 home community, and I don't want to try and give the
19 evidence now, but I know what he's going to say, he's
20 already asked him, he's going to say that's probably
21 because that's the year we had this short little
22 training program, so there's 15 little people sitting
23 there and being trained in 1986 when the census came
24 through and that's all the data we have.

25 In '87 it would have been completely

1 wrong, in '88 we don't have a clue. So we can ask them
2 individually in 1991 what the situation is, and that I
3 intend to do, but it's a very piecemeal approach.

4 MADAM CHAIR: The evidence though that
5 was spoken to yesterday by Mr. Simmons with respect to
6 the 400 plus Indian people in 1971 identified as being
7 involved in forestry in some way, whether that was a
8 seasonal job or whatever, is before us.

9 MR. COLBORNE: Yes.

10 MADAM CHAIR: Now, Mr. Simmons' evidence
11 was he doesn't know if those numbers were accurate then
12 but he believes there has been a drastic reduction
13 since that time, and that's what we are left with.

14 MR. COLBORNE: And we are relying on
15 that, that is an important part of our evidence. And
16 if we're wrong, then Mr. Freidin has the ability on --
17 well, he certainly had the ability in terms of
18 cross-examining this panel and he can continue with
19 that, or in terms of community by community, trying to
20 show that there are indeed more than just a handful of
21 Indians working in the forest industry.

22 But we tried to get the best evidence
23 there was and it isn't the greatest, there is simply
24 not a nice neat database that you can pull off the
25 shelf and say: Well, here's the information for 1991,

1 it doesn't exist.

2 MR. CASSIDY: Can I ask a point of
3 clarification of you, Mr. Martel. Are you referring to
4 getting a handle on the Natives who live in these --
5 who are band members living on reserve who working off
6 reserve, or are you also interested in - and one thing
7 I'm just curious was - interested in the number of
8 Natives who do not live on the reserve who work off the
9 reserve. Are you interested in that number as well?

10 MR. MARTEL: Well, Treaty 3 is on
11 reserve, their evidence and we get to OMAA that's off
12 reserve, it covers them.

13 But my concern, I guess what I'm trying
14 to get a handle on so I can see in a pragmatic way just
15 how bad the situation is for Indian people in terms of
16 the number of jobs, whether they're part-time -- I
17 worry about part-time jobs because people end up on
18 unemployment insurance or welfare and there's not much
19 future there.

20 I would like to have a picture of the
21 people from Treaty 3 community by community. If I had
22 my way, I would say, I want to know how many fully
23 employed by (a) MNR; (b) the Industry; (c) the Native
24 organizations themselves, so we can have an assessment
25 of how critical the situation is.

1 And it's very difficult when you have
2 different sets of figures, none of it correlates, none
3 of it is precise. I mean, it's not going to be smack
4 on precise like we were running a UIC department or anm
5 unemployment insurance department, but it would be
6 helpful at least to me, and I think to my colleague, if
7 we had a more precise, if possible, picture of where
8 the Indian people were employed, how many are
9 unemployed and so we can look at it realistically, and
10 it's hard to make decisions when you're not sure of
11 what the facts are.

12 As close as possible, humanly possible.

13 MADAM CHAIR: Mr. Colborne, the evidence
14 of your clients is the Board won't be getting any more
15 accurate employment data for forestry than we have in
16 front of us now.

17 MR. COLBORNE: I intend to ask
18 representatives of each and every Treaty 3 community
19 that appears here and, of course, I can't guarantee
20 that they all will, some are not activity involved in
21 forestry, but I intend to ask them how many of the
22 members of their communities are working in forestry
23 and in each part of the forest industry.

24 And most of these individuals -- for
25 instance, these people who you now have seen will be

1 speaking for their own communities. They are fairly
2 well informed and, in most cases, these are not huge
3 communities, so they would have a reasonable handle on
4 how many jobs we're talking about.

5 If there were 10 jobs, for instance, it's
6 unlikely that they're going to say there was a hundred
7 and it's equally unlikely they're going to say it was
8 zero, they're probably going to be pretty close.

9 MADAM CHAIR: We do have that information
10 from the witnesses in Panel 2, so far we do have the
11 information for the bands they represent.

12 MR. COLBORNE: Yes.

13 MADAM CHAIR: All right, thank you.

14 MR. KAVANAUGH: There's also a situation
15 too where there may be transient workers in the area
16 from out of province like Manitoba, because I know in
17 fact Devlin Timber used to hire a crew from Duck Lake
18 Manitoba -- Duck Bay, excuse me.

19 CHIEF WILSON: I guess that because you
20 have brown skin does not mean that you're from Treaty 3
21 and perhaps maybe the people that are working at Devlin
22 Timber, regardless of where they may be from, may be
23 assumed they're from Treaty 3.

24 MR. CASSIDY: That goes to the point I
25 was raising with my clarification, Mr. Martel, that

1 there may be Natives other than the Treaty 3 Natives
2 who you might be interested in.

3 MR. MARTEL: Well, right now we can only
4 deal with Treaty 3. See I think I was just trying to
5 get a handle. I think we're going to have to do the
6 same when we come to the Metis and NAN, I mean, to get
7 an assessment of what the situation really is as much
8 as possible.

9 You know, there's not going to be precise
10 figures as (a) 27 people work for company "x" and
11 they're all -- I don't think we're going to get that
12 refined, but I think if we could just get an
13 approximation it would be helpful to me at least.

14 MR. FREIDIN: Q. Mr. Martel made a
15 comment about Treaty No. 3 members being on reserves.
16 Am I correct that there are members of Treaty No. 3 who
17 do not live on reserves?

18 CHIEF WILSON: A. Yes.

19 Q. And what sort of percentage of the
20 Treaty No. 3 members live off reserves; are you aware?

21 A. Perhaps if I give another example,
22 since the inauguration of Bill C-31 many of the people
23 who are now members, because of that process many of
24 the members -- membership of, the new membership is
25 still living off the reserve, if not 90 per cent of

1 them.

2 Q. All right. So with Bill C-31 as many
3 as -- as much as 90 per cent of people who are regarded
4 as members of the Treaty No. 3 live off reserves?

5 A. Yes.

6 Q. Now, before Bill C-31 what would the
7 breakdown have been?

8 A. Okay. I'm not sure if you're meaning
9 that 90 per cent have moved back to reserves.

10 Q. No, no, no, no. I'm just saying,
11 with Bill C-31 in terms of members of Treaty No. 3 we
12 have the ones that existed before Bill C-31 and now
13 we've got a whole bunch more.

14 A. Right.

15 Q. Now, of all of those people, how
16 many -- what percentage live off reserves?

17 A. Well, to give you an example, in my
18 situation, in my community situation, okay - and that
19 may not be typical with everyone, it could vary from
20 each community - we have now as a result of Bill C-31
21 a membership of 6,700 plus membership. We only have
22 250 living on reserve.

23 Q. Okay. Now, can you give me any
24 approximation, just a ballpark figure, for the Treaty 3
25 territory all of it, what percentage of Treaty 3

1 members would be living off reserves now that we have
2 Bill C-31?

3 A. Perhaps maybe, I understand that our
4 Grand Chief is going to be on the witness and he may
5 have a better handle because he does represent the 25
6 bands.

7 MR. FREIDIN: Could we have that question
8 addressed by Chief Fobister, Mr. Colborne? I think
9 it's something that the Board is interested in and
10 obviously Mr. Cassidy is interested in too.

11 MR. COLBORNE: I will tell him you're
12 interested in that. I don't know if he can come here
13 with precise information, I don't know if there is
14 anybody who can.

15 MR. FREIDIN: I don't know if he will
16 have precise information, I'm just looking for orders
17 of magnitude.

18 MR. MARTEL: Could I ask one more
19 question of your panel, Mr. Colborne.

20 When you speak to jobs then, Chief
21 Wilson, you're talking about people on the reserve and
22 the jobs that are prevalent in your community; each of
23 you, as opposed to those who are not on the reserve.

24 CHIEF WILSON: No, no. I'm also making
25 reference to the membership -- I'm making reference to

1 the membership.

2 MR. MARTEL: To the total membership.

3 All right.

4 CHIEF WILSON: Yes.

5 MR. FREIDIN: Q. And what recordkeeping
6 or mechanisms do you have in place that allows you or
7 that enables you to indicate what Natives who are
8 living off the reserve are doing in relation to their
9 employment?

10 CHIEF WILSON: A. We now have -- we are
11 now -- we have now started a personnel file to give us
12 an indication what their qualities are, I guess, let me
13 put it that way, okay.

14 Since C-31 our philosophy is to try and
15 provide first work to our membership. If we don't know
16 what those qualities are, regardless if they are
17 lawyers, labourers or whatever, it doesn't give us a
18 good handle on when opportunities do arise.

19 Q. And is that a record which has been
20 completed for all members of Treaty No. 3?

21 A. I can't speak for all of Treaty 3.

22 Q. I will ask -- Chief Fobister is the
23 person to ask?

24 A. I'm only making reference to my
25 community.

1 Q. Your community. Is there anything
2 similar for any of the communities that any of you
3 other gentlemen represent?

4 MR. KAVANAUGH: A. Yes. I have in the
5 past done up community profiles from Whitefish Bay and
6 that lists all the members of Whitefish Bay.

7 It lists the people that commute to
8 Kenora for jobs and it has people that reside in Kenora
9 and what type of jobs they're involved in and, you
10 know, like I said, it's a community profile that tells
11 you, you know, the reader what qualification an
12 individual has.

13 Q. All right. And, Mr. Carpenter, does
14 your band have a similar sort of profile?

15 MR. CARPENTER: A. We don't have a
16 profile on the community such as described by Francis
17 Kavanaugh, however, our population on the reserves
18 stands about 683 I think was the last head count. The
19 head count was done to see how the dollars could be
20 distributed that we get from the federal government.

21 So what happens is, each community does
22 their own head count and, therefore, sometimes they'll
23 claim that they have more people than the south or vice
24 versa.

25 Q. All right. What I'm more interested

1 in is that when you do a head count, is there any
2 assessment made as to whether the people who are of,
3 you know, who are old enough to be working are working
4 and, if so, where?

5 Do you keep those sort of records?

6 A. We don't really have that on record.
7 I jotted down some figures here yesterday.

8 CHIEF WILSON: A. I took his information
9 upstairs.

10 MR. CARPENTER: A. I think Chief Wilson
11 took it, but anyway it tells me that probably about 70
12 per cent of those employed, speaking of Lac Seul now,
13 the Lac Seul Band members are employed off reserve.

14 When you say we have 675 band members
15 working, we're assuming that 70 per cent are working
16 outside Lac Seul because our total membership stands
17 1,944 on this record anyway, so the vast majority of
18 our band members are off the reserve.

19 And referring to the C-31, our population
20 jumped another 300.

21 Q. Okay. Now, when you and the
22 witnesses were giving your evidence about how many of
23 your community members were employed in the forestry
24 industry or were employed in any other capacity off the
25 reserve, were you just thinking about the members of

1 your communities as it existed before Bill 31 or after?

2 A. Looking at the immediate band members
3 that were visible within the communities.

4 Q. All right. So then those would be --
5 All right. So your evidence, Mr. Carpenter, you were
6 talking about the members of the Lac Seul Band that
7 live on the reserve?

8 A. Yeah.

9 Q. All right. And, Mr. Wilson, when you
10 gave your evidence about the level of employment of
11 members of the Rainy River Band, were you limiting your
12 evidence to those who live on the reserve?

13 CHIEF WILSON: A. It's our total
14 membership.

15 Q. Was the total membership that you
16 were talking about the membership before or after Bill
17 31?

18 A. After. That's today.

19 Q. Okay. Mr. Carpenter, when you gave
20 your evidence about employment of members of your Band,
21 were you talking about members of the Band who lived on
22 the reserve only?

23 MR. KAVANAUGH: A. My name is Kavanaugh.

24 Q. I'm sorry. Mr. Kavanaugh.

25 A. Okay. That was after the fact, Bill

1 C31. I'm not referring to -- I'm only referring to the
2 Treaty 3 area.

3 We have a lot of our membership that reside
4 outside of the boundaries of Treaty 3. We have people
5 residing in Thunder Bay, we have people residing in
6 Winnipeg, we have Bill C31s living in the States, we
7 have Bill C31 people living in southern Ontario, in
8 B.C.

9 So I'm not counting those. I'm only
10 counting Whitefish Bay membership which resides inside
11 the boundaries of 55,000 square miles.

12 Q. Just to confirm, that includes
13 members of Bill C31 who do not live on the reserve?

14 A. Yes.

15 Q. And you have that information through
16 this profile that you say was given?

17 A. Yes.

18 Q. Mr. Seymour, in relation to the Rat
19 Portage Band, when you were giving your evidence about
20 employment of members of your community, were you
21 talking strictly about the members of your community
22 that live on the reserve?

23 MR. SEYMOUR: A. Yes.

24 Q. Thank you.

25 MR. FREIDIN: It seems to me, Madam

1 Chair, that I can ask this question of every one of
2 these witnesses and it seems we have got a bit of a mix
3 and a match here.

4 I don't have any control and my client
5 has no knowledge at to the kind of details which would
6 the question I think you posed to be answered. It
7 seems to me that if that information is to be forth
8 coming it is going that is going to have to be
9 organized with Mr. Colborne along with his client.

10 MR. COLBORNE: Absolutely not. I mean, I
11 heard months of disorganized information from various
12 of the parties and all I can do is do my best.

13 MR. FREIDIN: I am not saying he should
14 do it. I am just saying, that if it is forthcoming the
15 information is with these witnesses and I can't provide
16 that and the details.

17 MADAM CHAIR: The Board accepts that we
18 will be hearing more from individual witnesses about
19 the employment situation of their members.

20 MR. COLBORNE: Yes, but if there are no
21 assembled totals in a nice, neat package that doesn't
22 prevent me from bringing forward the best evidence that
23 is available.

24 MADAM CHAIR: No, absolutely not. Again,
25 we are curious about this question because the evidence

1 of this panel -- much of it has discussed this
2 situation, but certainly we are not asking that you be
3 directed to go out and do some study in obtaining this
4 data.

5 MR. COLBORNE: Thank you.

6 MR. FREIDIN: Q. Yesterday, gentlemen,
7 the Board indicated -- we had a session called a
8 scoping session where we were discussing issues arising
9 out of later panels for Treaty No. 3, and one of the
10 panels that a question was asked about was Panel No. 4
11 which is a Mr. Poole who is going to come and speak
12 about the international perspective in relation to
13 aboriginal peoples and he -- first of all, have any of
14 you read that witness statement?

15 CHIEF WILSON: A. I have not. I'm
16 aware -- I haven't read it, but I have acquaintances
17 with Peter Poole.

18 Q. All right.

19 MR. FREIDIN: Mr. Colborne, can you
20 advise me whether this panel or any other panel of
21 witnesses from Treaty No. 3 will be able to indicate
22 whether they adopt in whole or in part any of the
23 various regimes, management regimes or alternatives
24 that Mr. Poole will describe in his evidence?

25 MR. COLBORNE: Panel 6 will be the panel

1 that deals with any questions concerning adoption by
2 the party; that is, Treaty 3 of of anything said by
3 anybody here.

4 MR. FREIDIN: All right, I accept that.
5 But you are not suggesting, Mr. Colborne, are you, that
6 we are going to go through five panels of witnesses and
7 we are supposed to assume that none of it is Treaty No.
8 3's position unless Panel 6 says so?

9 MR. COLBORNE: No, you can ask each panel
10 about the evidence given by that panel, but I don't
11 think that you can expect -- that you can ask Panel 2,
12 for instance, whether they adopt Panel 4. We have
13 economists in Panel 5. Do they have to adopt Panel 1?
14 They may never have even seen the information.

15 MR. FREIDIN: I think I asked a simple
16 question and you gave me a simple answer. I have got
17 it and thank you very much.

18 MADAM CHAIR: I think Panel No. 6 is
19 turning out to be similar to Panel No. 15 of your case,
20 Mr. Freidin.

21 MR. FREIDIN: It sure is.

22 MR. COLBORNE: Mr. Panel 6 is designed to
23 bring it altogether and any overall questions of the
24 type that Mr. Freidin is interested in would be
25 directed to that panel.

1 MADAM CHAIR: Thank you.

2 MR. FREIDIN: Madam Chair, my last
3 question is really in the nature of a request. It goes
4 back to our discussion yesterday about the plan from
5 the Islington Band and the evidence of this panel that
6 there are 10 forest management plans which have been
7 prepared by the Indian Forest Logging Program.

8 I would like -- I don't want to put this
9 panel in a position where they have to deal with those
10 without permission because they feel that is necessary
11 from the individual Bands, I would like an undertaking
12 from Mr. Colborne to request from his clients, from the
13 10 Bands in question their approval to make those plans
14 available to me.

15 I do so with the intention, so that there
16 is no doubt about it, that when I receive those, even
17 if it is after this party has completed its evidence,
18 that I will file any of those plans or portions of them
19 as an exhibit. What they might and what the weight
20 which might be given to what they might contain will be
21 a matter of argument.

22 I make that request on the basis that I
23 outlined yesterday - just so we have got it all in one
24 place on the record - and that is, one of the most
25 important issues, if not the most important issue

1 before this Board, is what constitutes sound timber
2 management practices.

3 The Indian Forestry Development Program
4 has been described by this panel as the body which
5 provides technical advice at the request of individual
6 Bands of Treaty No. 3, that those kinds of requests
7 have been made, that proposals have been made by the
8 Indian Forestry Development Program as to what they
9 believe is sound timber management practices.

10 You will recall the evidence of Mr.
11 Simmons. We have evidence some of those plans have
12 been approved by the Bands and, in my respectful
13 submission, when we get down to the end of this hearing
14 and you are charged with the task of deciding what the
15 parties believe are sound timber management practices,
16 the kind of evidence that may be contained in those
17 plans surely is going to be evidence which is relevant.

18 MADAM CHAIR: The Board is having trouble
19 with this, Mr. Freidin. I don't think anywhere Mr.
20 Colborne or his clients have characterized that the
21 forest management plans developed by the IFDP are
22 examples of sound management plans that they are
23 proposing the Ministry of Natural Resources adopt.

24 In fact, the evidence of Mr. Simmons is
25 that the timber management plans of the IFDP are not

1 cost effective, they are connected with traditional
2 Indian ways of doing things; quite a different matter
3 than anything MNR is doing with respect to timber
4 management plans.

5 MR. FREIDIN: Madam Chair, I invite you,
6 but you would not take me up on my invitation, to read
7 one of those plans.

8 I would suggest to you that if you do,
9 and I have only got one to look at, it is nothing like
10 what you have just described. I would suggest to you
11 that you should have the opportunity to look at one of
12 those plans and to see whether indeed it is any
13 different from the timber management plans prepared by
14 the Ministry of Natural Resources and to see whether
15 the activities which are approved are, in fact, perhaps
16 activities which some witnesses have suggested they
17 don't like.

18 Now --

19 MADAM CHAIR: Hold on, Mr. Freidin.

20 Mr. Colborne, are you going to be using
21 in any aspect of Treaty No. 3's case -- what do you
22 want to do with the IFDP management plans?

23 Are you telling us that the IFDP, their
24 plan, their timber management plans are better than
25 MNR's? Are you suggesting that MNR adopt some aspects

1 of IFDPs plans?

2 MR. COLBORNE: We haven't presented
3 anything here concerning plans that IFDP has prepared
4 or is preparing. It was not considered to be part of
5 our case in terms of our planning nor in terms of why I
6 introduced this panel.

7 MADAM CHAIR: So why does the Board --
8 exactly.

9 So, Mr. Freidin, why would the Board want
10 to spend time looking at the IFDP plans?

11 MR. FREIDIN: Madam Chair, there has been
12 evidence by witnesses on this panel about their view of
13 clearcuts. Mr. Watts specifically gave evidence about
14 his view of clearcuts. That witness -- that's evidence
15 from a witness from Panel Treaty No. 3 that you are
16 going to be asked and can be asked to rely on.

17 If I produced for you plans which were
18 prepared by the Indian Forestry Logging Program which
19 say you should clearcut, that your clearcut should be
20 this big or this small, that clearcuts means removing
21 everything not just the merchantable timber and that
22 that recommendation is accepted by a Band or maybe a
23 number of Bands, No. 1, that is relevant evidence and
24 is something that you should take into account when you
25 assess what an individual witness has said about

1 clearcuts and whether that is the view of Treaty No. 3.

2 You have made a comment and it concerns
3 me, you've characterized what their view is and what
4 these plans are and I am suggesting to you that I
5 should have been given the opportunity to test the
6 credibility of that evidence by allowing you to see the
7 actual plan to see what they are going to do.

8 MADAM CHAIR: That's fine, Mr. Freidin.
9 The example you have raised, the Board is able to
10 understand better when you point to a specific example.

11 If you are able to say the proponent has
12 a concern specifically about clearcutting, then we will
13 think about this a little differently. You are not
14 going to pile on us 10 management plans by the IFDP and
15 tell the Board to go fishing and you will come out with
16 one or two succinct arguments at the end of the day.

17 If your concern is clearcut and you have
18 heard that Treaty 3 has some opposition to clearcut for
19 reasons having to do with traditional ways and how they
20 see forest and waste, that's fine.

21 On the other hand, we also have Mr.
22 Simmons' evidence there are areas in Treaty 3 forests
23 that need to be clearcut because of past logging
24 practices.

25 Now, the Board is not stupid. We

1 understand why some of these things happen and why some
2 representations are made this way. If there is a
3 specific issue within the IFDP plans that you want to
4 bring to the attention of the Board we will consider
5 that, but we are not going to accept the submission of
6 10 or however many plans there are and go through it
7 line by line when we don't think it is relevant.

8 MR. FREIDIN: All right. Can I put the
9 questions this way --

10 MR. MARTEL: Just a moment.

11 ---Discussion off the record

12 MADAM CHAIR: Mr. Colborne, did you want
13 to say anything at this point?

14 MR. COLBORNE: Yes, I just took a moment
15 to confer. I realize that the witnesses are under
16 cross-examination, but I don't think Mr. Freidin minds.

17 I was just trying to clarify this because
18 it came as a bit of a surprise in that yesterday I
19 wasn't clear what Mr. Freidin's concern was, but now
20 that concern at least can be focused on at least one
21 example and that is clearcuts.

22 So I wanted to get some guidance from
23 these witnesses on that subject and in the moment I had
24 to talk to them it occurs to me that maybe we don't
25 need these plans. Maybe what we need is for Mr.

1 Freidin to simply proceed to ask questions about
2 whether clearcutting is a technique that is included in
3 plans produced by IFDP in general terms and, if so, of
4 what type and why and what circumstances and perhaps
5 even he wants to go so far as to ask them to see if
6 they can square that up with the apparent Treaty 3
7 position, that the type of clearcutting that MNR
8 approves is not desirable.

9 That's my suggestion. Then we don't get
10 into the difficult question of trying to obtain
11 authority for the production of documents which may
12 contain commercially sensitive information or other
13 confidential information.

14 I wonder if Mr. Freidin would be
15 interested in proceeding that way.

16 MR. FREIDIN: Sure. Let's proceed that
17 way. I thought it would be met with an objection to
18 talk about anything that was in the plans because I
19 didn't think the witnesseses wanted to talk about
20 anything.

21 MR. COLBORNE: I am saying, if it is
22 phased in terms of 'the plans' as opposed to any
23 particular plan, I don't see that there could be
24 objection to a question such as, does IFDP include in
25 any of its plans provision for clearcuts of any kind

1 and go from there.

2 MR. FREIDIN: Let's go.

3 MADAM CHAIR: Go ahead, Mr. Freidin.

4 MR. COLBORNE: I remind you that Mr.
5 Simmons isn't here and he's the one who does the
6 day-to-day work, but I am sure that the other witnesses
7 can handle the questions sufficiently.

8 MR. FREIDIN: If they can't, we can just
9 deal with it by way of undertaking.

10 Q. In relation to the plans that have
11 been prepared bay IFDP and submitted as final plans to
12 the various Bands for approval, do any of those plans
13 provide for logging to be done in -- by the use of
14 clearcuts?

15 CHIEF WILSON: A. If I may. Let me give
16 my understanding. So that I'm a little bit more clear,
17 I will give you some examples and see if I am on the
18 right track, okay.

19 We've given you example of how we -- how
20 IFDP is approached by the Band. First the Band will
21 approach us and ask us to prepare a plan for them and
22 we do a preliminary plan for them and that sorts of
23 indicates to us when their intent is. In most cases,
24 the communities are not forestry minded or forest
25 management minded, so they take our advice at face

1 value.

2 We prepare these interim plans or interim
3 proposals and how this is going to go on the guidelines
4 of the COFRDA because we are going after COFRDA
5 dollars, okay.

6 Now, once we have -- once the initial
7 stages have gone through, we will go back to For Can
8 for their approval of the proposal. Once we have got
9 the Band approval, we make recommendations to -- we
10 will take a proposal and submit it to COFRDA, then it
11 is accepted. Once it is accepted by COFRDA, then the
12 agreement between COFRDA and the Band --

13 Q. For the money?

14 A. For the money, yes. Based on the
15 plans that we have. The outcome of that is we become a
16 third party to it.

17 Q. You mean the IFDP?

18 A. Yes, in assisting For Can in making
19 sure that the work is being done according to their
20 standards. There has been the occasion where COFRDA or
21 For Can did not come on site to do the site
22 inspections, that it has relied upon our expertise
23 based on the standards of For Can.

24 Q. Okay.

25 A. Payments then are finalized by For

1 Can or COFRDA.

2 Q. Right.

3 A. Now, I want to go a little bit
4 farther because you talked about clearcut. Some of
5 these plans that we have, when we arrive on a community
6 and a plan -- a preliminary plan has been accepted and
7 we look at, say, a block of a hundred acres, in that
8 block there is perhaps merchantable timber, there is
9 perhaps some wood that could be used for the purpose of
10 firewood or other uses.

11 We will make recommendation to the Band
12 prior to us going in there and doing the silviculture
13 activities, prior to us putting in a bulldozer or
14 whatever in there. It would be very useful to try and
15 clear up, clean up whatever we can in that given area.

16 Q. What do you mean by clear up or clean
17 up whatever is in that given area?

18 A. If we have a plan of a hundred acres
19 that we made recommendation to the community as
20 accepted, For Can has accepted or COFRDA has accepted,
21 then in realizing we are trying to utilize as much as
22 we can from that area there are still a tree or two
23 standing here that are merchantable, there are still a
24 tree or two standing there that could be used for
25 firewood, there is windfall, there is all kinds of

1 usages left in that area.

2 We recommend to the Band then at that
3 point and say to them: Look, try and clean up as much
4 as you can out of that, try and utilize whatever you
5 can before we come in there with bulldozers in January
6 and we have very little time to do that.

7 Q. All right. Now --

8 MR. COLBORNE: Excuse me. Another
9 member --

10 CHIEF WILSON: I don't know if you can
11 refer to that as clearcutting.

12 MR. COLBORNE: Another member of the IFDP
13 Board whose name I mentioned yesterday has arrived and
14 that is Don Jones and in case he is the one to field
15 any of Mr. Freidin's final questions I am going to ask
16 him to join the panel now.

17 He is the person who attended on Chief
18 Wilson's behalf the meeting of the forestry ministers
19 which was held in Toronto yesterday. So I will just
20 ask Mr. Jones to come forward and to join the panel.

21 MADAM CHAIR: Hello, Mr. Jones.

22 MR. JONES: Hello.

23 MADAM CHAIR: Can you come forward and be
24 sworn in, please.

25 DONALD JONES, Sworn

1 MR. FREIDIN: Q. All right. Now, Mr.
2 Wilson, thank you for -- I appreciate your explanation
3 of the funding and the involvement of COFRDA.

4 Just so I understand where I am coming
5 from, I am interested in knowing what it is that the
6 IFDP which has the technical expertise through Mr.
7 Simmons and others, what it is that they have proposed
8 to Bands in relation to a number of issues which I will
9 discuss with you, and then I am going to be asking you
10 whether in fact you are aware of any of the Bands
11 accepting the technical advice and the views of IFDP.

12 Now, we were dealing with clearcuts and
13 can you advise me whether any -- let's limit this to
14 the 10 plans that have been prepared recently as
15 referred to in the exhibits. Do any of those plans
16 propose that logging should be done in clearcuts -- can
17 you just answer yes or no?

18 CHIEF WILSON: A. No.

19 Q. No you can't answer the question, or
20 no, they don't recommend clearcuts?

21 A. No, they don't recommend clearcuts.

22 Q. Sir, if I --

23 A. Let me --

24 Q. Have you read the plans?

25 A. Yes.

1 MR. FREIDIN: Well, Madam Chair, here we
2 are in a situation where I have got a plan sitting
3 right here that says logging should be done in
4 clearcuts. I can't cross-examine this witness unless I
5 am allowed to put this statement -- the document to the
6 witness.

7 MR. COLBORNE: Well, Mr. Freidin can put
8 the document to the witness without it being filed as
9 an exhibit. He can read from it and I am sure he is
10 now not referring to anything, as I said, commercially
11 sensitive or had to do with confidentiality matters.
12 He can read a passage from it. I'm not going to object
13 to that.

14 MADAM CHAIR: Mr. Freidin, do you have in
15 front of you a silvicultural prescription having to do
16 with clearcut and can you quote from -- can you read
17 what us what the statement is?

18 MR. FREIDIN: Yes, sure. This is exactly
19 what I thought would be objectionable. If I can do it,
20 that's fine.

21 Q. I have a document here, and I suggest
22 to you it is a plan, prepared by IFDP which says under
23 the heading Harvesting:

24 "For the most part, logging should be
25 done in clearcuts between 40 and 80

1 hectares..."

2 which is a hundred and two hundred acres

3 "...in size large enough to facilitate

4 site preparation and planning, but small

5 enough to maintain the quality of

6 the environment. Every effort should be

7 made to find a market for all balsam fir

8 in any cut blocks. Within each stand, as

9 much as possible of the less merchantable

10 species such as poplar and birch should

11 be harvested for fuel wood wood. The

12 more of these trees removed the easier

13 it is to establish a new merchantable

14 stand."

15 Is that, sir, not a recommendation which

16 is contained within a plan prepared by IFDP?

17 Why don't you just pull out the document

18 that I gave to you yesterday, the Islington plan.

19 MR. MARTEL: Because, as I understand

20 it -- I guess what's worrying me, Mr. Freidin --

21 MR. FREIDIN: Well, Mr. --

22 MR. MARTEL: I know what your concern is,

23 but what's worrying me is, if it is not their property

24 you are asking them -- my understanding of their

25 situation is that the document belongs to the Islington

1 Band and we are asking them to give evidence on
2 something that isn't their property, and that worries
3 me.

4 MR. FREIDIN: Mr. Colborne is the one who
5 suggested I do it this way.

6 MR. COLBORNE: I am not taking objection
7 as long as it doesn't get tied as closely as we are now
8 tying it to a particular plan. I had suggested that
9 this be in general terms.

10 MR. MARTEL: That's what I raised the
11 matter because we are right back to square one.

12 MR. FREIDIN: Well...

13 MR. MARTEL: I understand your dilemma.

14 MR. FREIDIN: You are right, it is a
15 dilemma.

16 MR. MARTEL: But, you see, we could also
17 bring in the plans where cutting goes on private land
18 and that isn't done here either in northern Ontario.

19 MR. CASSIDY: Well, Mr. Martel, that is
20 irrelevant in that this EA doesn't deal with private
21 land.

22 MR. MARTEL: Does this EA deal with
23 Indian lands?

24 MR. CASSIDY: Well, the native groups are
25 making an issue of --

1 MR. MARTEL: You didn't answer my
2 question, Mr. Cassidy.

3 MR. CASSIDY: It doesn't deal with native
4 reserves.

5 MR. MARTEL: That makes a difference,
6 though, doesn't it?

7 MR. CASSIDY: No, it doesn't, Mr. Martel,
8 with respect. The question of property is irrelevant
9 when it comes to the admissibility of a document in
10 cross-examination against the witness. They can put
11 any document to a witness.

12 MR. MARTEL: It isn't their property,
13 though. How did we get the property in the first
14 place?

15 MR. COLBORNE: I think it was obtained
16 because a former employee of IFDP went to work for MNR
17 and took it with him, but it's also provided as a
18 matter of simply the exchange of information between
19 the two bodies.

20 MADAM CHAIR: Look it, we're reaching an
21 impasse here. Mr. Martel is concerned about this
22 specific plan that we haven't entered as an exhibit,
23 and I assume you and Mr. Freidin haven't gone through
24 the exercise of seeing whether confidential or censored
25 information can be deleted from it but, at the same

1 time, the witnesses are saying that at under no
2 circumstances would the IFDP propose modified
3 clearcutting on reserve lands.

4 CHIEF WILSON: Without making reference
5 to this document, okay, I think that it was quoted from
6 the document, okay, and isn't our property to make
7 judgment or make comments on it.

8 But I can say this, that when we go in
9 and do an assessment and if we're going to as -- just
10 looking at it there and, if we're looking at 40 acres
11 and our judgment is to say: Okay, now that you've
12 accepted the fact that we're going to do some
13 silviculture in that area, we're going to do some tree
14 planting or we're going to do some hand tending or try
15 and do some -- rehabilitate the area, okay, we then
16 recommend that they try and clean the area up as much
17 as they can to whatever extent they can, regardless of
18 whether it's for firewood or if there is any
19 merchantable timber in there, if there's a tree or two
20 left in that area, then we will make that
21 recommendation. If that's considered clearcutting,
22 then that is clearcutting.

23 MR. COLBORNE: If I may, just from what
24 Mr. Cassidy said, it is probably useful for me to
25 clarify the reason why the evidence concerning

1 on-reserve timber is before the Board.

2 It's certainly known to all of us that
3 the undertaking does not extend to the on-reserve
4 forest. The reason why Treaty 3 wanted to bring
5 forward the evidence concerning the on-reserve forest
6 is to avoid the possibility of being assumed or argued
7 that Indians did not require allocation considerations
8 off reserve because they had an on-reserve forest.

9 I didn't want to leave the on-reserve
10 forest just as a pure question mark, what's there, what
11 can be gained from that, I wanted there to be
12 information before the Board as to what was available
13 there.

14 But other than that, the internal
15 management is really getting fairly far afield from the
16 terms of reference of this board just as internal
17 management decisions on privately owned land would be
18 getting fairly far afield. I mean, that's just for
19 clarification.

20 We can, of course, find relevance in
21 practically anything we talk about if we try hard
22 enough, but at a certain point a line has to be drawn.

23 MADAM CHAIR: Well, Mr. Colborne, a
24 problem has come up. The Board is going to have to
25 take this into consideration with respect to the weight

1 it puts on the evidence of clearcuts certainly and the
2 position that your clients would take on that.

3 Now, we have before us evidence only with
4 respect to a statement by a witness that it is not
5 the view of Treaty 3 that a clearcut is a good way of
6 harvesting.

7 The Board will have to put the weight it
8 sees fit on that evidence. We're not going to be
9 cross-examining these witnesses on what is in the IFDP
10 documents, but the Board is left without very much on
11 that particular issue.

12 MR. COLBORNE: I'm not quite sure I
13 understand, because maybe -- I don't want to leave a
14 lack of evidence on anything that is important.

15 MADAM CHAIR: Well, I think what we have
16 heard from your witnesses is that they do not approve
17 of clearcutting.

18 MR. COLBORNE: Yes.

19 MADAM CHAIR: We have some reason to
20 believe that silvicultural prescriptions, however
21 clearcutting is defined, could be applied to forests on
22 reserve land.

23 Are we to assume from that that whatever
24 happens on forest lands on Indian reserves, that has no
25 applicability to what happens on Crown land forestry?

1 MR. COLBORNE: No. And I will -- since
2 this ambiguity has arisen, I will try in the evidence
3 to be called in future panels, particularly Panel 6, to
4 provide the clarification.

5 MR. MARTEL: What about the possibility
6 of --

7 MADAM CHAIR: Are we having someone
8 before us representing the Islington Band, Mr.
9 Colborne?

10 MR. COLBORNE: My understanding from
11 telephone calls yesterday is that they were invited and
12 would try to have somebody here today, but I don't know
13 if that will in fact occur or not because I myself was
14 not involved in making the arrangements.

15 MR. FREIDIN: Madam Chair, I am not here
16 to take -- you know, I don't want to make things any
17 more difficult than they have to be.

18 I'm quite prepared to delay my questions
19 on any specific document or general questions about
20 these plans if I'm advised some time before this
21 party's evidence is over that I have a witness that I
22 can ask about these sorts of matters that I'm raising.

23 It might be that Mr. Simmons who is their
24 technical expert be recalled at a time which is
25 convenient to Mr. Colborne so that I can put these

1 questions to him, because what these are are
2 recommendations which he said are technical in sound
3 timber management practices recommended by IFDP, and if
4 he says: Yes, there are such statements, I may want to
5 say: Why do you think that's sound?

6 MR. COLBORNE: So maybe Mr. Simmons --

7 MR. FREIDIN: So maybe that's the way to
8 do it.

9 MR. COLBORNE: Maybe Mr. Simmons can be
10 here today. I excused him because I thought we were
11 finished with him, again, not knowing that this was
12 going to arise. He may be available.

13 I have a nod from the witness table, so I
14 think we could probably have him down here in a
15 reasonably short space of time.

16 MADAM CHAIR: How many more questions do
17 you have, Mr. Freidin?

18 MR. FREIDIN: Only in relation to this
19 subject matter.

20 MADAM CHAIR: Why don't we take the
21 morning break now, Mr. Colborne, and could you and Mr.
22 Freidin sort this out, tell the Board what you want to
23 do about it in 20 minutes?

24 MR. COLBORNE: Thank you.

25 ---Recess taken at 10:25 a.m.

1 ---On resuming at 10:55 a.m.

2 MR. FREIDIN: Let it not be said that
3 counsel can never agree. Mr. Colborne, do you want me
4 to indicate the agreement or will you?

5 MR. COLBORNE: Well, I will try to
6 describe it and Mr. Freidin no doubt will correct me if
7 I error.

8 It's evident that a good deal of time
9 would be taken up now if Mr. Freidin were to ask the
10 questions that he had in mind at the break and, as
11 well, Mr. Simmons is not available, in fact he is out
12 working on one of the reserves today.

13 The approach that we have agreed to is
14 that IFDP will request permission to have filed a
15 management plan that it has prepared and if the request
16 results in the band that owns the plan declining to
17 agree, then we will produce Mr. Simmons and whatever
18 other IFDP representatives are necessary to answer Mr.
19 Freidin's questions at some later date; is that...

20 MR. FREIDIN: Yes, and I think we have
21 also agreed that if in fact an agreement is reached to
22 file a plan that we would in fact remove names and
23 references contained in that document which would in
24 any way indicate which band it is, and I am content to
25 do that.

1 MR. COLBORNE: And probably we would have
2 to remove numbers as well so that a knowledgeable
3 person could not determine from examination of numbers
4 which reserve or which forest the plan refers to.

5 But we would not be removing concepts or
6 recommendations, and I think that is what Mr. Freidin
7 wanted to get at.

8 MADAM CHAIR: All right, thank you,
9 counsel. So we will move on. Mr. Freidin, are you
10 finished with your cross-examination?

11 MR. FREIDIN: I am.

12 MADAM CHAIR: All right, thank you.

13 MR. COLBORNE: I have just a few points
14 by way of re-examination and, not surprisingly, I will
15 begin with the topic that we have just had before us.

16 I'm sorry, it seems that there may be
17 further cross-examination.

18 MR. CASSIDY: No, no, I don't have any
19 further cross-examination.

20 MR. FREIDIN: Madam Chair, I wanted to
21 file a couple of interrogatories. Maybe I should do
22 that.

23 MADAM CHAIR: Pardon me, Mr. Freidin?

24 MR. FREIDIN: I would like to file a
25 couple of interrogatory responses. Maybe I should do

1 that.

2 MADAM CHAIR: All right.

3 MR. FREIDIN: These are MNR

4 Interrogatories 2, 6, 7, 9, and 19.

5 MADAM CHAIR: Thank you, Mr. Freidin.

6 Those will comprise Exhibit 1865.

7 ---EXHIBIT NO. 1865: MNR Interrogatory Question Nos.
8 2, 6, 7, 9 and 19.

9 MADAM CHAIR: Please go ahead, Mr.

10 Colborne.

11 MR. COLBORNE: Q. Mr. Watts, I welcome
12 you back to the panel. The topic that we have just
13 been dealing with and which was raised by Mr. Freidin
14 in his cross-examination; and, that is, the question of
15 clearcuts.

16 If I recall the evidence earlier
17 correctly it was you who made some comments in that
18 regard, and what I would like you to do now is to
19 expand and clarify your earlier comments about your
20 attitude towards clearcutting as a method of cutting
21 forest?

22 MR. WATTS: A. Okay. First of all, I
23 apologize for being late. Let me give you an example
24 first what's happened to me a number of times.

25 I'm a logger by trade. As you know

1 Ministry sets out wood lots and it's clearly ribboned
2 out and in there is old timber and young timber and we
3 are supposed to cut everything in that block, every
4 tree, but it happens a lot of times the trees are less
5 than 4 inches and the paper mills do not accept
6 anything less than four inches, so these small trees
7 are loaded on a truck and most often happens the truck
8 gets sent back to the bush, unload the wood, they don't
9 want it.

10 We're told to cut it and we can't sell it
11 any place, or we have to sort it out, take all the
12 small stuff out and at tremendous cost.

13 First of all, it costs money to cut it,
14 then it costs money to sort it out, time. So what I do
15 is I just leave it standing and I get in trouble or the
16 MNR don't like that.

17 So it's a continuing debate about that
18 between MNR and the paper company, it's Great Lakes in
19 this case, and it's sort of a dilemma for us.

20 And a lot of times in the past
21 clearcutting was -- told to clearcut, it was considered
22 a clearcut, in that clearcut you take from the butt,
23 but poplar would be left standing and they weren't
24 considered any value, so like a woodlot would have a
25 hundred cords of poplar left, but it was still

1 considered a clearcut area.

2 There were no value in any of these
3 considered trees. Now they are a little bit different
4 now, they're accepted by the paper mills and they're
5 not -- they're wood.

6 Did I make myself clear, or am I
7 confusing everybody?

8 Q. Is that the same type of clearcutting
9 as may be referred to in IFDP plans for the on-reserve
10 forest?

11 And any member of the panel could deal
12 with that question, if they like.

13 CHIEF WILSON: A. Okay. Maybe I can
14 share my definition of clearcut and how IFDP views and
15 accepts communities and how we make recommendations.

16 First of all, clearcut to us is when we
17 look at vast areas and it's premeditated murder to the
18 tree, when it disturbs nature in its totality, the
19 habitat, water, and air, then we're opposed to that and
20 I'm opposed to it.

21 When we as IFDP are requested by a
22 community and the difference between that and the kinds
23 of plans is, a timber management plan as opposed to a
24 silvicultural plan. We are, at that point when we're
25 requested by the band, it's not a timber management,

1 plan, it's a silviculture plan; someone has gone in
2 there already and has cut out as much of the timber or
3 merchantable timber and there might be trees left in
4 there such as balsam, such as smaller trees that still
5 could be considered as merchantable timber, firewood or
6 the we had poplar.

7 When we do our plans for a small area,
8 and they could be from 10 hectares to a hundred
9 hectares, we will make recommendation that prior to
10 us - and again that's the difference between the timber
11 management plan and a silviculture plan - we are making
12 recommendation to a silviculture plan and we will make
13 recommendation that prior to silviculture activities
14 that they try and utilize as much of the product that
15 is in there, regardless if it's poplar, firewood or if
16 there's any merchantable timber or whatever, we will
17 make recommendation.

18 That does not mean necessarily that the
19 band will take our recommendation or vice versa. The
20 band may want to recommend to us that we include taking
21 everything out for full utilization of the area.

22 So again we heed to the demand of the
23 community and we try and include that in the plan, in
24 the silviculture plan so that proper growth and
25 competition of foreign growth is not going to be there

1 for the kinds of trees we may be wanting to put in.

2 Included in that plan will be a tending
3 plan which will again allow whatever we're planting a
4 better chance for growth.

5 I don't know what else I can add to that
6 at the moment. I had some notes here but I think I ate
7 them up or something, I'm not sure.

8 MADAM CHAIR: Thank you very much, Chief
9 Wilson. That clarification is helpful to the Board as
10 is Mr. Watts'.

11 In three years we have heard a great deal
12 of evidence about clearcutting. Clearcutting means
13 many different things to many different people and it's
14 helpful for the Board to hear your definitions and your
15 views. Thank you.

16 CHIEF WILSON: Thank you.

17 MR. COLBORNE: I didn't have any further
18 re-examination, unless any of the other members of the
19 panel wanted to respond to the last question any
20 further?

21 MR. KAVANAUGH: I would like to, maybe
22 from the perspective of the community I represent, that
23 is Whitefish Bay, I would like to give my views on
24 clearcutting, that is, with respect to what we at
25 Whitefish Bay consider to be our traditional areas, you

1 know, with regards to trapping, hunting, fishing, you
2 know.

3 That is where our concern lies with
4 respect to clearcutting, you know, we would like to be
5 parties to any kind of considerations when they're
6 going to clearcut an area that is adjacent to the
7 community. That is our concern.

8 I am not opposed to people cutting in any
9 given area, but they should at least consult with us
10 first and they should also not be clearcutting close to
11 areas where people reside or people try and make a
12 livelihood from trapping, fishing, and hunting. That
13 is my concern.

14 In fact we have a tourist camp operators
15 in our area which are only accessible by water,
16 although there is a road in there, but it's of
17 restricted use, in fact I got a call again last night
18 from one of the camp owners and his concern was that
19 MNR was in there at an area back in there, they were
20 looking at a site where they may build a bridge because
21 they're going to connect the neighbouring mine road
22 with another road that would complete a circle.

23 You know, you can practically take a
24 detour from Highway 71 on the neighbouring mine road
25 and you can end up in Nestor Falls sort of thing, and

1 that road would go through some of our traditional
2 areas, and I know for a fact has been -- I know for a
3 fact that the area is designated to be clearcut, and
4 the camp owner suggested that, you know, things had to
5 be done with respect to consultation.

6 So that is my views with regard to
7 clearcutting in any given area. Thank you.

8 MR. COLBORNE: Does any other member of
9 the panel wish to add anything on the clearcutting
10 question arising out of my question and Mr. Freidin's
11 cross-examination on that topic?

12 (no response)

13 Very well. The last matter, just
14 housekeeping really, a document called the McTavish
15 Report was referred to in cross-examination. I think
16 it would be advisable to have it filed for that reason.

17 I have with me only one copy which I will
18 leave with you, Madam Chairman, and I will make
19 arrangements to get copies made and additional copies
20 filed.

21 MADAM CHAIR: Thank you. Could you
22 identify that document by title and so forth, Mr.
23 Colborne?

24 MR. COLBORNE: Yes. It's titled: Review
25 of Indian Forest Resources Management and Development,

1 the author is John S. McTavish and it's dated March,
2 1987.

3 MADAM CHAIR: That will be Exhibit 1866.

4 MR. FREIDIN: Just for the record, Madam
5 Chair, I think I didn't refer to that in
6 cross-examination, I thought it was a document that was
7 put in by the witnesses and I'm not too sure why it's
8 going in.

9 MR. COLBORNE: Oh. It is quoted in the
10 witness statement and I thought that Mr. Freidin in his
11 cross-examination did refer to it. Let me refresh my
12 memory for a moment.

13 MR. GILLESPIE: I do think the document
14 was referred to either in direct or cross-examination.
15 I remember Chief Wilson commenting on the acceptance of
16 the report by the community.

17 MR. COLBORNE: Yes. In fact, when I
18 search my memory I'm quite confident, not totally
19 confident, but quite confident that Mr. Freidin did ask
20 Chief Wilson about this particular document and there
21 are quotations from this document which appear--

22 MR. FREIDIN: Let it go in. Let it go
23 in.

24 MR. COLBORNE: --in the witness
25 statement.

1 MR. FREIDIN: Let's not take any more
2 time.

3 MADAM CHAIR: That will be Exhibit 1866,
4 Mr. Colborne.

5 ---EXHIBIT NO. 1866: Document entitled: Review of
6 Indian Forest Resources
7 Management and Development,
8 authored by John S. McTavish,
9 dated March, 1987.

10 MR. CASSIDY: Mr. Colborne, will you
11 undertake to provide me with copy of that?

12 MR. COLBORNE: Yes. The reference in the
13 witness statement is at paragraph 39. (handed)

14 That concludes the Panel 2 evidence. I
15 am prepared to begin the Panel 3 evidence.

16 MADAM CHAIR: Thank you, Mr. Colborne.

17 Again, gentlemen, I thanked you all
18 yesterday for your hard work and attendance at the
19 hearing and I'll repeat the panels' gratitude and you
20 are all finished.

21 CHIEF WILSON: Thank you.

22 MADAM CHAIR: Thank you very much.

23 MR. COLBORNE: As I mentioned yesterday,
24 I have asked these witnesses to obtain permission where
25 that is necessary for them in each case to speak on
behalf of their communities and their Chiefs as a
matter of efficiency so that other people don't have to

1 travel.

2 I believe that that is the case for all
3 persons here now, with the exception of Mr. Jones who
4 is still awaiting word.

5 So I'll just ask them to keep their seats
6 and we will proceed, as long as they're comfortable
7 with that.

8 However, I will not begin with any of the
9 gentlemen here, I will begin with Chief Barnie Petiquan
10 because he has been patiently waiting and has other
11 obligations today. So I call him forward.

12 CHIEF BRUCE PETIQUAN, Sworn

13 MADAM CHAIR: Mr. Colborne, shall we make
14 the witness statement for your Panel No. 3 Exhibit
15 1867?

16 MR. COLBORNE: Yes, thank.

17 MADAM CHAIR: This is entitled the
18 Individual Community Situations.

19 ---EXHIBIT NO. 1867: Panel 3 witness statement of
20 Grand Council Treaty No. 3.

21 MR. COLBORNE: Madam Chair, just before I
22 ask the first questions of this witness, to explain
23 what this panel is all about, to give you a little
24 context. It has already been mentioned that there
25 isn't a convenient data source regarding the situations

1 of the Treaty 3 communities and it would be an
2 extraordinary large undertaking to produce such a
3 thing.

4 What we were doing because of that --
5 those two problems is actually bringing before you
6 representatives of as many of the Treaty 3 communities
7 as we can manage. It is not intended that this be
8 entirely scientific, but you will have to satisfy
9 yourselves that the individuals who come forward do
10 have knowledge and can advise you of what the situation
11 on the various reserves is, especially as it relates to
12 forestry.

13 That will be the nature of the questions
14 for all of the witnesses and because of course they are
15 travelling from numerous locations, some of which are
16 quite remote, it may be that the clarity of the
17 evidence suffers somewhat because they will not have
18 had an opportunity to see exactly how the evidence is
19 received and they might be walking in cold and so on
20 and so forth. So I just ask that you bear with them
21 and.

22 With that general introduction --

23 MADAM CHAIR: Excuse me, Mr. Colborne.
24 Could you clarify for the Board that within the present
25 Treaty 3 area there are 25 communities?

1 MR. COLBORNE: The number of Indian Bands
2 associated with Treaty 3 is 25.

3 It gets a little less clear when one
4 talks about communities, however, because you will
5 recall, for instance, that Mr. Carpenter advised us
6 that there are three communities at Lac Seul.
7 Communities is one of those words like clearcuts; it
8 depends on who you ask what exactly is meant, but the
9 written witness statement is organized into 25 sections
10 and that's what we will generally be referring to as
11 communities.

12 MADAM CHAIR: So the 25 areas are not all
13 of the 25 Bands, but are 25 communities from most of
14 the Bands of Treaty 3?

15 MR. COLBORNE: No, are all of the Bands.

16 MADAM CHAIR: All right, thank you.

17 MR. COLBORNE: And within each Band
18 sometimes there is more than one community.

19 MADAM CHAIR: Thank you very much.

20 MR. COLBORNE: I should also say that I
21 can't -- in fact I am practically certain that we will
22 not have representatives of all communities here.

23 Treaty 3 as an organization of course
24 cannot compel attendance and there can certainly be
25 travel problems and so on and so forth. I am hoping

1 that a definite majority and certainly the Bands that
2 are most interested and involved with forestry will be
3 represented as part of Treaty 3, but I do not expect
4 that every single community will have a representative
5 here to give evidence.

6 DIRECT EXAMINATION BY Mr. COLBORNE:

7 Q. Now, Chief Petiquan, I will first ask
8 you to take a look at the photomosaic which is titled
9 the Treaty 3 Ojibway Home Land - I don't have my note
10 right here of its number as an exhibit - and ask you if
11 you could indicate the location of your home reserve on
12 this.

13 I am going to help the witness just a
14 little bit because I don't think he has seen it before
15 now. It is not like a map that's easy to read.

16 Now, tell us just what the general area
17 is? If one wanted to go there, how would you get there
18 and what would you find when you got there?

19 CHIEF PETIQUAN: A. Maybe I will stand
20 up and just pinpoint so you get a better idea.

21 Q. Chief, you can take the mike if you
22 like.

23 A. Okay. As you know, the settlement
24 where I come from is known as Wabauskong Indian Reserve
25 21. It is situated there because it is a navigation

1 area. As you know, Lac Seul is our nextdoor neighbour
2 and Grassy Narrows on the other side. So English River
3 is our navigation river back and forth and that's the
4 reason why we are that area. Also, the economic base
5 is there.

6 Now, how to get there. As you know,
7 before early years it was a remote area and only
8 accessible by water. Now we have -- today we have
9 roads, we have a highway. You turn off by Vermilion
10 Bay, go straight up north. As you know, Red Lake was a
11 gold mine so that's the reason why the road was built
12 also.

13 So the road comes along our area which is
14 three miles just off the reserve. It is three miles
15 into our reserve. So we get access and transportation,
16 and also it is known as 50 parallel. You can't see the
17 line, but if you look at the map that's how you locate
18 it.

19 Q. How long have you been Chief of the
20 Wabauskong Band?

21 A. About 11, 12 years; around there.

22 Q. Now, I understand that in recent
23 years that the community of people now living at
24 Wabauskong was re-established there. Can you tell us
25 about that?

1 A. Well, as you know, I guess Treaty day
2 was 1873 but it was there before -- before the title
3 was given and known as a reserve and there was a
4 fluctuation of people going back and forth.

5 So, as you know, a long time ago natives
6 moved around quite a bit; they didn't stay in one
7 place. So eventually they'd always wind up in that
8 place because of the economic base and all that.

9 For now that's...

10 Q. When was it that the current
11 community that actually lives there was built?

12 A. As you know, in 1873 when the treaty
13 days -- like, every year we get these treaty days. As
14 you know, the Government of Canada comes around to each
15 reserve. Ours wasn't -- at that time we used to go to
16 Grassy Narrows Reserve. It has a bigger population,
17 also more accessible; closer to Kenora. So that's
18 where our people use to go and collect their treaty
19 money.

20 Q. Twenty years ago, were there many
21 people living right on the Wabauskong Reserve?

22 A. Twenty years ago, there were always
23 people living there. They built log houses there, the
24 people that used to live there. The people that signed
25 the Treaty used to live to there, so there were log

1 houses there. You know, not a large amount of people,
2 but there were people living there.

3 Q. Are there more people now living
4 there?

5 A. As of today, yes. There is more
6 development going on because of the capital, there is
7 demand, and also people try and go back. Like the
8 earlier comment, the people want to come back but there
9 is not enough capital to, you know, build the housing
10 situation.

11 Q. What are the future plans? What do
12 you see in the next 10 or 20 years for Wabauskong?

13 A. Well, in that area, we will probably
14 always be there. We aren't going any place. So in our
15 area there is a vast interest in our surrounding area,
16 what goes on. So we're not going any place. So that's
17 where we're going to be.

18 I guess as far as our land resources,
19 like tourism and trapping areas, that will be the basis
20 of, you know, survival. Maybe some other stuff might
21 come in later.

22 Q. What is the situation as far as --
23 you mentioned trapping and tourism. So generally
24 what's the situation with all uses of resources
25 including fish, trapping, wild rice and hunting right

1 now, but just leave out forestry because that is what I
2 am going to get to next, okay?

3 A. As you know, today, the only place we
4 have a right to do anything is on reserve, our own
5 reserve, the one that was titled to us.

6 If you go outside then there is
7 regulations we have to try to get which is the
8 privilege of government, it controls everything. This
9 is Crown land, I guess. If you want to do anything you
10 have to go to them; sometimes you don't get it,
11 sometimes you get it. So everything outside is
12 completely controlled, regulated, so there is nothing
13 we can do if we decide to do anything.

14 Q. Aside from the regulations, though,
15 is there still good fishing, hunting, trapping and wild
16 rice in that area? Not just on the reserve, but around
17 you?

18 A. Okay. Maybe I could just -- one area
19 first, wild rice. I guess this is the reason also that
20 the natives settled in that area because we do have a
21 lot of wild rice fields in that area from where we come
22 from.

23 Maybe the reason also is that while we
24 have a dam in Ear Falls, but that doesn't affect us
25 very much. Only Lac Seul gets affected because our

1 water comes from the central area and trickles down to
2 our area. So the dam is no problem with us at this
3 time and that's why we've have too much -- not too
4 much, but we have got wild rice fields.

5 Q. So your wild rice fields have never
6 been flooded?

7 A. No, just a natural cause. There is
8 no dams there yet so it's okay.

9 As far as trapping. As you know, there
10 is a lot of lakes accessible to us where we go and do
11 our own trapping.

12 Now, I guess the stumbling block we have
13 is when they brought in those licenses. Now you have
14 to have a licence to trap. We only got two people I
15 think that has allocated traplines, they call them. So
16 that's our trapping area. There was one more question
17 you asked...

18 Q. Fishing.

19 A. Okay, fishing. Ours is sort of a
20 navigation water so people -- I mean, sort of the fish
21 go back and forth. We also have a lot the tourism in
22 that area. We have about six, seven camps in that
23 area.

24 So there is a lot of fish, except there
25 is commercial fishing going on every fall. We were a

1 little concerned on that one. We might be able to --
2 we figured if you over-commercial too much there will
3 be no fish for the tourists, plus us, we fish once in a
4 while.

5 Q. What about game, like animals?

6 A. As far as wild game, like moose,
7 there is a lot of moose in that area. We see quite a
8 bit in our area.

9 And then just up north there was an open
10 house two years ago in that area where there was public
11 input, I guess. We did put in a submission to Dryden
12 District, which is MNR. We told them where they
13 shouldn't cut for the sake of moose populations or
14 where they do their regeneration. We figured that's
15 the place where they do their offspring, that sort of
16 thing.

17 Anyway, we sent a letter about two, three
18 years ago I think, or maybe longer. They wrote back to
19 us and said: Well, we have this new method of cutting
20 right-of-ways which is clearcutting, you know, that
21 won't damage any rehabilitat time. They gave us examples
22 of certain areas where they did it and there was no
23 damage.

24 Well, anyways, as far as our wilderness
25 is concerned, once you touch a wildness it will be

1 affected. So that's the general comment there.

2 Q. Let me just follow that up a bit
3 because I think that you are the one who provided the
4 information that is in the written statement about
5 opposition from the older people or something that you
6 heard from the older people on your reserve against
7 timber harvesting in an area north of the reserve; is
8 that correct?

9 Could you just tell us more about that?

10 A. Okay. In the 50s, maybe earlier on,
11 that's before there used to be - I don't know - a
12 company called Mandu I guess or whatever. They used to
13 cut close in our area there right along the reserve or
14 sometimes inside the reserve and it was at a time when
15 the natives were just moving around. They had no
16 location I guess.

17 When they would come in the spring they
18 would see these people moving around in that area and
19 also, remember, the road was just getting improved in
20 that area. Also, there was a lot of demand in that
21 area at the time because we had a sawmill in Red Lake
22 Road where they were cutting boards, two by fours, so
23 there was a lot of demand at the time. So maybe that's
24 why there was a lot of activity in that area.

25 Q. What I was thinking of when I asked

1 the question - and if the other lawyers don't object to
2 me leading you - is the information that's in the
3 witness statement about an area where it was said that
4 the forest was going to be cut and this was just north
5 of the reserve or north of the reserve, that was a very
6 productive area for hunting and there was some
7 discussion about whether or not strip cutting would be
8 a good idea.

9 Do you know what I am referring to now?

10 A. Yes.

11 Q. Could you just tell us about that
12 from your own information?

13 A. Maybe I didn't quite explain earlier
14 when I said that place we were talking about. I
15 suppose you can call it traditional area.

16 Anything around that area, around that
17 surrounding area, as you know, affects us. So I guess
18 the reason why they never got to that area yet is
19 because they have to build bridges across the river and
20 they have to go through Cliff Mountains or Uno
21 Mountains or high mountain rocks.

22 So it is not feasible at this time to go
23 into that area, but in the future I think they probably
24 will get into that because they are cutting already
25 between Ear Falls and Pear Falls in the north area

1 where accessible. So it is probably just a matter of
2 time before they move into that area.

3 Q. Chief, what is the main employment
4 for the people who live on the reserve right now?

5 A. Well, as you know, we don't have
6 employment, we have seasonal I guess. In the
7 springtime, most of it is tourism and some other areas,
8 you know, when things are available, like work projects
9 and that sort thing.

10 Q. I want to ask you about the
11 on-reserve forest. What shape is it in? Is there any
12 good wood that can be cut or is there very much?

13 A. Well, we did a timber cruise not long
14 ago, about three years ago I guess. They said there is
15 a little bit of timber left from the previous
16 contractor cutters. As far as I recall, there were two
17 cuttings in the 1950s and the 1960s that were done and
18 there is a little bit of cut area left.

19 Q. What about off-reserve, is there
20 still a lot of forest in that general region that is
21 suitable for commercial cutting?

22 A. Well, not today. Off-reserve, as you
23 know, is regulated and controlled by other parties. So
24 there is nothing you can -- or request to do because we
25 have private contractors that are given a licence to

1 cut from companies, probably Dryden Paper Mill. I
2 don't know who controls that area, Kenora or Dryden.

3 But anyways, in Ear Falls there is -- a
4 company I guess was set up by Kenora. What do they
5 call that company there? The one in the mill here?

6 Q. Boise Cascade?

7 A. Yes. They have an office there and I
8 suppose if you want to go to work for them you have to
9 go through them and it's not easy to get on their work
10 jobs. Most of it is unionized and you have to be a
11 union member in order to get in.

12 Q. Let me just follow that up a little
13 bit. What you have just said, does that mean that if a
14 member of the community living at the Wabauskong
15 Reserve wanted to get a job in forestry there is an
16 office at -- where did you mention, Ear Falls?

17 A. Yes, Ear Falls.

18 Q. A Boise office at Ear Falls where you
19 could apply; is that correct?

20 A. Yes. You have to put your name in
21 and whatever they do with it, I don't know. As you
22 know, again, it's unionized. Your chances of getting
23 in are very slim.

24 Q. Have you or any member of your Band
25 applied? Do you have any information on that?

1 A. Yes, I had a few people who went and
2 applied to see what could happen, but the problem is
3 that -- I'm not sure exactly, but they said that at
4 this time they are not hiring, but maybe the Sioux
5 Lookout area, there is another office there. They
6 might go there and put their name in.

7 Q. Is that recent that this has
8 happened?

9 A. Not, not really. About three, four
10 years ago that happened. I suppose once you go there
11 and when you don't get a response you don't bother to
12 go back sort of thing.

13 Q. Do you, that is the Wabauskong Band,
14 does it have any forestry operations at all whether on
15 reserve or off reserve?

16 A. No, we don't have any forestry
17 operations at this time because also it costs quite a
18 bit to start up, you know, to buy all the equipment to
19 take out the logs and all that.

20 Q. What about the individual members of
21 your Band, do any of them work in forestry whether
22 cutting or in mills or management or anything of that
23 type?

24 A. Not at this time. Yes, a long time
25 ago they used to work; seven or eight years ago. They

1 used to work up by north of Sioux Lookout. I don't
2 know what company that would be, probably the Dryden
3 area.

4 Q. What was the change between then and
5 now in that then they had jobs and now they don't have
6 jobs in forestry? What change, do you know?

7 A. I'm not sure of the change. Probably
8 it's also the commuting. As you know, when you work in
9 pulp you have to say there all year round and I guess
10 our area is a little different.

11 In the fall or in the spring, people like
12 to go guiding, that sort of thing. So there is a
13 different habit of work, how you do things. In the
14 fall you got that wild rice thing. You know, maybe
15 that's why they're not dependable to work in the
16 logging for the logging companies.

17 Q. What about tree planting and fire
18 fighting, do any members of your Band get employment
19 doing either of those two things?

20 A. As far as tree planting, there is no
21 tree planting in our area. I think there was one --
22 they were supposed to go to Ear Falls, but I don't know
23 what happened there, but nobody is tree planting.

24 As far as the forests fire, there is
25 nobody in forest firing because it's hard -- difficult,

1 I guess, to get on board where the fires or if you get
2 called.

3 Q. Is there any effect of forestry
4 operations; that is, cutting and logging roads and this
5 kind of thing on the fishing, trapping, wild rice and
6 hunting that you mentioned?

7 Is there any negative or positive effect
8 that you are aware of?

9 A. The area I guess what you would
10 notice is the moose migration, the moose moving around.
11 Along Ear Falls area, at the time they are cutting
12 right now on Lac Seul along the area, you notice the
13 moose are moving away from that area. We see a few in
14 our area, you know, moving around, come in our area,
15 too. So that probably is one effect.

16 What's the question? I forgot the other
17 one.

18 Q. Well, just any effects that you are
19 aware of or you want to mention between basically
20 logging and roads that go along with logging and
21 fishing, hunting, wild rice or trapping.

22 A. Well, trapping. As you know, it is a
23 cover for wildlife and small little animals too, in our
24 area anyway. They need food from certain areas. There
25 is a general decline in migration patterns, maybe

1 because of where they have to travel through the bush
2 and how they get their food is very different.

3 Now, as far as fish, as you know we have
4 trout areas up north also. The one I forgot to mention
5 is Wine Lake. There is nobody cutting right now but,
6 as you know, trout area lakes are very sensitive areas
7 and it may have effect also if they decide to cut in
8 that area where we say not to cut at this time. So we
9 are just watching that.

10 Q. Thank you.

11 MR. COLBORNE: Those are my questions.
12 Thanks, Chief Petiquan. There may be more questions.

13 MR. CASSIDY: I have some questions,
14 Madam Chair.

15 MADAM CHAIR: Mr. Cassidy?

16 CROSS-EXAMINATION BY MR. CASSIDY:

17 Q. Mr. Petiquan, you indicated that -- I
18 think it was your evidence that there was a Boise
19 Cascade office in Ear Falls.

20 My information, sir, is that there is no
21 Boise Cascade office in Ear Falls and that there is an
22 office maintained by an independent contractor,
23 independent from Boise Cascade, named R & W Timber. Is
24 that more correct than your information?

25 A. If you go Ear Falls, I suppose you

1 can't help notice it, the design, the green design of
2 the vehicles. I don't know what company or -- we don't
3 go in there and ask questions what kind of company, who
4 they are.

5 I assume that's what these outlets are.
6 I don't know if they are private or they are just
7 parked in there for a reason. I don't know. I don't
8 know. I didn't really study who has the timber rights
9 in that area. Is it Dryden? Is it Kenora? I know
10 there is a building. There is some equipment in there.

11 Q. Faced with those uncertainties you
12 are not in a position to dispute my information; is
13 that correct?

14 A. Well, another area I guess I could
15 say the people went there looking for work. I assume
16 that's where they went and tried to get some
17 clarification.

18 Q. Has anybody from Band, Mr. Petiquan,
19 ever met with officials from Boise Cascade in Kenora to
20 discuss the possibility of obtaining wood allocations?

21 Well, as you know, we haven't approached
22 the forestry on timber allocation, the simple reason is
23 that they have already private contractors all over
24 that area.

25 They usually -- now, I could be wrong,

1 but when they ask for certain areas, as you know, you
2 need capital to start off too, so that limits the
3 independent timber or the loader to start off.

4 But if you want to enquire about it, then
5 they usually tell: Well, there is a private contractor
6 already there, why don't you go ask him, maybe he will
7 employ you. So that's what's been happening.

8 Q. Sorry?

9 A. People been going to the private
10 contractors to try to get employment from him.

11 Q. The independent private contractors?

12 A. Yes.

13 Q. So the answer to my question is you
14 have not spoken directly to the Boise Cascade people in
15 Kenora about that, you've dealt with the independent
16 private contractors; is that right?

17 A. Well, for me as a band I guess we
18 don't go look for, you know, when we should. It's the
19 individual that goes and asks to look for work.

20 Q. Okay.

21 A. So he does that.

22 Q. All right. Well, let me come to that
23 tree planting then. As I understand it, there are the
24 last -- just this year there were approximately two
25 million trees planted within a 40-mile radius of your

1 band's area and yet you told us there was no tree
2 planting in that area. Can you clarify that for me?

3 A. Well, I don't recall any tree
4 planting. See, as you know, we are not informed about
5 tree planting or anything, like our people, they are
6 not tree planting in there. So whoever planted,
7 private contractors, they do their own thinning.

8 Q. I see. So there may have been people
9 out there planting, you're not aware of it; is that
10 fair to say?

11 A. That's right. See the problem also
12 is we don't have -- the impression we get is we have no
13 rights, like, on Crown lands, the only right we have is
14 on our own, we call the reservations, like that's where
15 our dilemma is.

16 I think it's pretty hard for us I guess
17 to go and try to assert our interests, actually it's
18 coming slowly, like, what goes on outside the reserve
19 is starting to materialize slowly.

20 Q. Your band is on the mailing list for
21 the Patricia FMA; is it not?

22 A. Yes.

23 Q. So you are kept informed of events as
24 things are being mailed on the mailing list; is that
25 correct?

1 A. Well, the information we get from
2 Dryden are open houses. Open houses like the one I
3 just mentioned earlier, if you have an interest in
4 anything, you know, come in and -- an example, when I
5 say open house that is the information we get from
6 provincial office.

7 Q. I just wanted to finish my questions
8 by asking you about these people who go out and look
9 for work on their own.

10 You are not in a position to indicate
11 today who those people are or to the extent that people
12 get jobs working on their own in forest industry; is
13 that correct?

14 A. Well, I have no control over
15 individuals.

16 Q. Right.

17 A. Where they go, it's -- you know.

18 Q. And that would include not only
19 people in logging but people in tree planting, you have
20 no control over that and you are not really aware the
21 extent to which they are employed; is that correct?

22 A. Yes, I have no control. I guess they
23 have to go seek employment or wherever they can find
24 it.

25 Q. And most tree planting is done by

1 independent contractors, or do you know?

2 A. Well, that is the impression earlier
3 on we had, like, somebody's assigned a particular
4 contract to plant trees and it's up to them. I don't
5 know how they do their employment, see, but earlier on
6 what we don't know, what they don't tell us, so I
7 suppose you have got to catch them the right time,
8 like, in the spring, you go to MNR office, they tell
9 you who is, sometimes they don't know until the
10 contract is fulfilled.

11 MR. CASSIDY: Those are my questions,
12 Madam Chair. Thank you very much.

13 MR. GILLESPIE: Madam Chair, I have a few
14 questions.

15 MADAM CHAIR: Ms. Gillespie?

16 CROSS-EXAMINATION BY MS. GILLESPIE:

17 Q. Chief Petiquan, I'm Nora Gillespie,
18 I'm a lawyer for Ministry of the Environment in these
19 hearings. I just have a few questions about the letter
20 you mentioned sending to the Ministry of Natural
21 Resources.

22 I take it from Mr. Cassidy's question
23 that you wrote that letter because you received notice
24 of an open house to do with the Patricia Lake FMA?

25 A. Yes, that was the first involvement

1 we had, I guess, with the provincial government on any
2 concerns about timber management or timber cutting and
3 any interest about certain areas, you know, wanted to
4 express opinions, so that is what we did.

5 Q. So you received a written notice that
6 there was going to be an open house?

7 A. Yes. I did attend one and then I
8 told them I was going to send them a letter regarding
9 our interest.

10 Q. So you did attend the open house in
11 Dryden; was it?

12 A. Yes. There was one also in Red Lake,
13 so that was our closest area, I mean, at Ear Falls.

14 Q. I see. Is that the only open house
15 your band has attended?

16 A. Yeah, at the time, yes.

17 Q. Have you attended other ones since
18 then?

19 A. No, I didn't attend any other.

20 Q. Is that the only open house that you
21 have received notice of? I'm trying to find out
22 whether you would have a general practice of going or
23 not?

24 A. Well, we receive quite a few, I
25 suppose, information from certain governments and we

1 can't go to all of them, so...

2 Q. Have there been any other open houses
3 to do with timber management planning that --

4 A. We did receive some material from
5 Kenora, but that is in Kenora area though.

6 Q. And you were unable to attend that
7 one?

8 A. No, I didn't.

9 Q. What was the reason that you were
10 unable to go?

11 A. Well, as you know, my area is the
12 Wabaskang, so most of the travelling out of town sort
13 of thing, so...

14 Q. So it was too far for you to travel?

15 A. Well, it's not too far, it's just the
16 time slot was difficult to fit in, you know. I guess
17 that's the reason most of my colleagues -- I hear they
18 got, you know, assignments to meet that sort of thing,
19 they're not here to, you know, to express. That's the
20 reason why they're here some time, permitted today to
21 try to be here.

22 Q. So the letter that you wrote was with
23 respect to the wildlife that you felt would be affected
24 by the cutting?

25 A. Yes.

1 Q. And you received a response from the
2 Ministry of Natural Resources you mentioned?

3 A. Yes.

4 Q. And you also mentioned in your
5 witness statement that that timber has not been cut?

6 A. Yes.

7 Q. As of this date; is that right?

8 A. Yes.

9 Q. Do you know why it hasn't been cut?

10 A. Well, earlier I mentioned the reason
11 why, it's not accessible at this time, it's divided by
12 a river -- two rivers and also a high cliff, so you
13 need, I suppose, more capital dollars to build a road
14 in and also to build a bridge. I am sure it cost
15 money.

16 But at this time there is cut going on
17 further north. Once they finish that, I suppose, and
18 then they will come down in that area.

19 Q. Do you know whether there is a plan
20 to cut the timber that you were objecting to?

21 A. Well, if you look at the map area
22 where they suggest, like I'll show you, if you go to
23 open house they've got there big map area, they have
24 allocated themselves where they want to inventory,
25 where they will be cutting.

1 See, our area covers all this area, so
2 the whole block is already blacked in, so it's pretty
3 hard to pinpoint where you see they're already there by
4 Ear Falls, it's Red Lake District apparently or
5 something.

6 I don't know how to explain it, but it is
7 already covered, the whole thing, but if you want to
8 get technical then you get down, pinpoint certain lots,
9 area each year, I guess how they do it.

10 Q. So I guess Chief Petiquan you are
11 really not in a position to say whether or not the
12 reason that they have not cut this timber might be your
13 objection?

14 A. Well, I don't know if my objection or
15 our objection. Well, the letter I received sounds like
16 we got this new method about clearcutting which is
17 strip cutting, whatever, won't affect wildlife.

18 You cut one area and you leave a little
19 bit standing, then you cut another area and leave
20 standing, and then they said that will not affect
21 wildlife area, and that's the general comment what I
22 got.

23 MR. GILLESPIE: Those are all my
24 questions.

25 MADAM CHAIR: Thank you, Ms. Gillespie.

1 Mr. Freidin?

2 CROSS-EXAMINATION BY MR. FREIDIN:

3 Q. Chief Petiquan, are you able to
4 advise me with any more particularity where this area
5 was that you were concerned about in terms of the
6 effect of cutting on the wildlife?

7 A. You mean that area I'm talking about
8 that where we object to?

9 Q. Yes.

10 A. Well, the only -- I show the map.

11 Q. Can you just describe to me generally
12 where it is in relation to a major lake or a point we
13 can find on the map where it is in relation to the
14 reserve.

15 A. It's across from the reserve.
16 There's a big lake, there's also a river, it's
17 across -- like, you can see across the lake.

18 Q. What's the lake? What's the name of
19 the lake?

20 A. Wabaskang Lake.

21 Q. Wabaskang Lake?

22 A. Yes.

23 Q. And this area that you are concerned
24 about is on what side of the lake?

25 A. It's on the west side, northwest

1 side.

2 Q. Northwest side. And you say there's
3 a river?

4 A. Yes, there's a river. You have to
5 travel -- you go around, also another area known as
6 Twine Lake.

7 Q. What is the name of the lake?

8 A. Twine like.

9 Q. One lake?

10 A. Twine lake.

11 Q. Twine lake?

12 A. There's trout in that area also.

13 Q. All right. Now, how did you find out
14 that there was going to be harvesting or there was a
15 possibility that harvesting would occur in that area?

16 A. Well, we went this open house as I
17 said earlier.

18 Q. All right.

19 A. And then if you are in that area
20 you'll know there's a lot of activity going on.

21 Q. Okay.

22 A. And cutting, you know. Eventually
23 you'll know that, when they are finished cutting
24 eventually they will move in that area.

25 Q. When you went to the open house were

1 you able to determine that they might be harvesting in
2 that area by looking at the maps yourself or did
3 someone have to help you?

4 A. Well, the way the map was generally
5 presented with their suggestions were, they would go to
6 that area first, the cut area, you know.

7 Q. All right. So I'm just trying to
8 confirm then. I understand what you're saying is that
9 you were able on your own by looking at the map which
10 was made available to determine that something might be
11 happening in an area that gave rise to your concern?

12 A. Eventually it will happen.

13 Q. Yes. But you were able to tell that
14 something was planned for that area on your own, you
15 didn't have to have somebody help you point to the map,
16 you were able to read the map yourself?

17 A. The general idea, you know, of simply
18 we assuming would happen later on.

19 Q. All right. What I am interested in,
20 there's some question, people are curious whether or
21 not these maps are understandable or helpful to people
22 like yourself who go to open houses. I just want to
23 understand.

24 I understand from you that when you went
25 there the maps were clear enough that you were able on

1 your own to see that activities were planned in an area
2 which then gave rise to your concern about wildlife; is
3 that correct?

4 A. Well, if you go to open house they
5 got this big coloured map, what you want to call it.

6 Q. Yes.

7 A. I assume that's where they are going
8 to be cutting in the future.

9 Q. All right.

10 A. So it's hard to pinpoint where
11 they're going to start because I understand every year
12 they allocate each year where they should cut, and that
13 sort of thing, where they are going to do certain
14 things.

15 Q. All right. And when you determined
16 that this was an area that they were going to cut in
17 but you didn't know exactly when, did you learn -- did
18 you sort of come to that conclusion on your own or did
19 you have to ask somebody from the Ministry of Natural
20 Resources what the map meant?

21 Do you understand my question?

22 A. Well, let me put it this way, we know
23 that there were already activity going on, so we know
24 eventually they will be coming around that area, so
25 they asked us for our input, what is your concern about

1 what we're doing.

2 So we told them where, you know, might be
3 a problem area. So that I assumed that is what they
4 wanted to hear, so that is the reason we wrote letter
5 and that he wrote back to us saying --

6 Q. Okay.

7 MADAM CHAIR: Excuse me, Chief Petiquan.
8 The question has to do with, some people have come
9 before the Board and said, we think that map business
10 is a waste of time, when we walk into a room and see a
11 map or many maps it doesn't help us a bit, we have to
12 sit down and talk to the MNR forester.

13 And so it's useful for the Board to know
14 that that map gave you some idea that you had a
15 concern, because at some point in the future they might
16 start cutting in an area that bothered you.

17 And I guess the question that the Board
18 is interested in having answered: Was that map
19 helpful, were you able to get something accomplished
20 because the map was there?

21 Would you have had that same information
22 if there had been no map?

23 CHIEF PETIQUAN: Well, I guess the open
24 house, as you know, is very vague, they just tell you
25 to come and any concern they show you a map and they

1 block off the colour, there it is, where is your
2 concern.

3 So you pinpoint it where you think might
4 be, you know, your concerns. What they do, it's hard
5 to predict.

6 I mean, eventually the reason why they
7 coloured over there, cut over there, I suppose they are
8 going to cut in the future when they run out of other
9 resource area. See, it's pretty hard to -- so we just
10 put our objections on it, that's about the best you
11 could do.

12 MADAM CHAIR: Do you have any ideas for
13 something that would have been more helpful to you?
14 Rather than having an open house or a map, would there
15 have been another way for you to know what was planned
16 for the future and for you to make an objection or
17 express a concern?

18 CHIEF PETIQUAN: Well, I guess the
19 concern would be, as you know, it's getting more where
20 the pressure, you know, where you live, the activities
21 that go around you now you have to be consulted these
22 days.

23 Like, earlier I said our only interest
24 was the reserve level, what happens outside was no
25 business of ours, but now is little different, now we

1 have to get involved what goes on within the reserve
2 boundaries or a little bit off what goes on.

3 But now there will be -- consultation
4 will be required if there is going to be any activity,
5 like, if they going to be cutting across the reserve
6 then have to be consulted, or if going to be cutting
7 where our interest is, you know, close by in that
8 perimeter, you know.

9 MADAM CHAIR: So public consultation
10 makes more work for you too?

11 CHIEF PETIQUAN: Well, that's a start,
12 you know. But public, it's a little difficult, I think
13 it's everybody coming in and you get lost in the
14 shuffle too, so...

15 MR. FREIDIN: All right.

16 MADAM CHAIR: Mr. Freidin?

17 MR. FREIDIN: Q. Chief Petiquan, would
18 it be a good idea, would it be helpful to you if the
19 open houses were put on right on your reserves if you
20 were concerned about operations in the area?

21 A. Well, as you know, open houses, it's
22 a provincial, you know, Crown area business only. As
23 you know, our reserves are federally.

24 Q. But you've said that you're taking
25 more interest in what's going on outside of your

1 reserve.

2 A. Yes.

3 Q. And I am suggesting to you that the
4 Ministry is willing to come to your reserve. If you
5 write to the Ministry and say: I would like to have an
6 open house on my reserve for you to explain to our
7 community what you're planning for the area sort of in
8 our neighbourhood outside the reserve, would you take
9 advantage of that, would you think that would be a good
10 idea?

11 A. Well, the way things are going, I
12 think any suggestion, good ideas are good ideas.

13 Q. Okay. All right. Now, when you were
14 describing where your reserve was, and particularly
15 when you were showing where the Red Lake Highway was,
16 you said that your community had access to
17 transportation, and I take it you were talking about
18 the highway; is that correct?

19 A. Yes.

20 Q. Could you tell me from the band's
21 perspective is access to transportation a good thing or
22 a bad thing?

23 A. It all depend. Well, today's
24 standards now you need a reasonable access area if you
25 want to get -- if that is community and you need to get

1 the materials or anything you want.

2 In the old days I suppose you didn't need
3 access because you didn't depend on anything, now you
4 depend on certain things.

5 Q. All right. So I am not asking you to
6 comment on any other community just your own. I
7 understand then that you're saying from your
8 community's perspective you think that having access to
9 transportation such as you have described is a good
10 thing?

11 A. It's good in a sense where it doesn't
12 really add pressure to where you come from. It's good
13 only when you have less action, reasonable, just enough
14 to get by, nothing really major is happening.

15 Q. All right. You also made a comment
16 in relation to trapping, that you had a lot of lakes
17 which were accessible to you.

18 Were the lakes that you were referring
19 lakes which were on Crown land or were they on the
20 reserve?

21 A. I guess you could say most of them
22 are on Crown land.

23 Q. And could you tell me, Chief
24 Petiquan, how did you access those lakes, how did you
25 get to them?

1 A. Well, as earlier I said, our area is
2 a navigation water, you could go through the rivers,
3 that's how we get around that area, rivers.

4 Q. All right. So you use water as a
5 means of access?

6 A. Yes. Then also portage other lakes.

7 Q. All right. Did you use any roads for
8 the purposes of accessing your trap lines?

9 A. Not really. Most of them are water
10 and even some places, I don't know what the policy is
11 now, we used to use logging roads, but they close them
12 up, you know, they close the roads so we can't get
13 access to that area.

14 Q. And were these roads which were --
15 did they deteriorate so they couldn't be used, or was
16 there some sort of sign put up, or some rule made that
17 they couldn't be used for access?

18 A. Well, example. I guess one road we
19 used to use, there was another trap line, it was sort
20 of hunting area, there used to be a bridge, but when
21 they finished they tear the bridge down, I guess you
22 call that as can't get access any more.

23 Q. I would agree with that.

24 MR. FREIDIN: I think, Madam Chair, those
25 are my questions.

1 MADAM CHAIR: Thank you, Mr. Freidin.

2 Mr. Colborne?

3 MR. COLBORNE: No re-examination. Thank
4 you.

5 MADAM CHAIR: Chief Petiquan, thank you
6 very much for coming today and talking to the Board.
7 We appreciate it.

8 Thank you.

9 CHIEF PETIQUAN: Thank you.

10 --- (Chief Petiquan withdraws)

11 MADAM CHAIR: Mr. Colborne, shall we
12 break for lunch now?

13 MR. COLBORNE: I think now would be a
14 good time to break, yes.

15 MADAM CHAIR: All right. And how many
16 witnesses did you want to call this afternoon?

17 MR. COLBORNE: I didn't know until we had
18 heard the first witness from Panel 3 just how long it
19 was likely to take, and I think that because each
20 community has to be dealt with separately that it may
21 be a little longer than I had first anticipated, so if
22 you were intending to sit until four -- is that
23 correct?

24 MADAM CHAIR: I think our advice from Mr.
25 Pascoe is that we sit until a quarter to four.

1 MR. COLBORNE: A quarter to four. That
2 we wouldn't this afternoon get any more than an
3 additional five Panel 3 representatives covered.

4 MADAM CHAIR: That might be ambitious.

5 MR. COLBORNE: It may be ambitious.

6 MADAM CHAIR: We will take our lunch
7 break now then.

8 MR. COLBORNE: Thank you.

9 MADAM CHAIR: Thank you, Mr. Colborne.

10 And we will be back at a quarter to two.

11 MR. COLBORNE: Thank you.

12 ---Luncheon recess taken at 12:15 p.m.

13 ---On resuming at 1:50 p.m.

14 MADAM CHAIR: Are we ready to begin, Mr.
15 Colborne?

16 MR. COLBORNE: Yes. I want to begin with
17 Francis Kavanaugh and Roy Carpenter from Whitefish Bay
18 and Lac Seul, not together but consecutively because
19 both of them have to travel and would like to leave as
20 soon as possible.

21 I'll begin with Francis Kavanaugh just
22 because he is sitting nearest me. And I want to try to
23 shorten the examination-in-chief a little with respect
24 to these witnesses and the rest of Panel 3 by asking
25 some very general questions, and the most poignant one

1 is going to be:

2 DIRECT EXAMINATION BY MR. COLBORNE:

3 Q. Mr. Kavanaugh, before coming here,
4 have you reviewed the information contained in witness
5 statement No. 3 referable to Whitefish Bay?

6 MR. KAVANAUGH: A. Yes, I have.

7 Q. And are you one of the sources of
8 information for that?

9 A. Yes, I was.

10 Q. And does that fairly reflect as a
11 matter of fact certain basic pieces of information
12 about your home community?

13 A. Yes.

14 Q. Are there any significant errors that
15 you noted as you read through it recently?

16 A. I find the information to be factual.

17 Q. Are there any major omissions that
18 came to your mind as you looked at it?

19 A. No, not really, no.

20 Q. Very well. How would you generalize
21 about the situation of the Whitefish Bay community in
22 terms of the forest industry is there much
23 participation?

24 A. At the moment there isn't very much
25 activity with respect to the industry itself in

1 forestry per se.

2 Q. What about in the past?

3 A. In the past there was considerable
4 activities in the logging, as well Whitefish Bay used
5 to be a major route for homing logs, in fact they used
6 to have the logging companies just anchoring there, tug
7 boats went off the reserve.

8 When I was growing up as a kid, in fact,
9 a lot of our reservations was logged out around 20s and
10 30s by these same lumbering companies.

11 Q. I wonder if you could show us on the
12 photo mosaic the location of Whitefish Bay and tell us
13 anything that you think is relevant to forestry about
14 the surrounding territory.

15 A. Whitefish Bay is over here situated
16 around, geographically it's almost central to Kenora to
17 the north, northwest and to the southeast, I mean, Fort
18 Frances and it's major transportation route would be
19 Highway 71 runs approximately three miles from the
20 reservations and - where is it, I lost it again - and
21 there is good tracts of timber still in the area and
22 around what we call traditional areas, land use.

23 Q. And you're indicating what area, east
24 of the reserve?

25 A. North of us, east of us and even to

1 the south of us.

2 Q. Now, what do you think the reasons
3 are why your community is not much connected with the
4 forest industry now, given the fact that there is
5 forest to be harvested in the vicinity?

6 A. I think one of the things that
7 precludes our activity in that area is the high cost of
8 capitalization. As you know, it requires considerable
9 sums to purchase logging machinery. You certainly have
10 to equip your crew with safety gear and, as well, most
11 of the tracts of land are already spoken for, so
12 basically people wouldn't be bothered, there's just not
13 much activity in that area.

14 Q. What about tree planting?

15 A. To a certain degree we have people
16 that work for off-reserve contractors, they -- some of
17 them travel to Red Lake area, while others may end up
18 in areas inbetween Nestor Falls, Fort Frances, even
19 Thunder Bay.

20 MADAM CHAIR: Excuse me, Mr. Kavanaugh,
21 you referred yesterday or the day before to 10 or 12
22 people who live on your reserve commuting to work?

23 MR. KAVANAUGH: Yes.

24 MADAM CHAIR: Was that to Kenora?

25 MR. KAVANAUGH: Yes.

1 MADAM CHAIR: Would that have involved
2 working for tree planting operations.

3 MR. KAVANAUGH: No. These people are
4 involved in other areas, like friendship centres,
5 Children's Aid, OTFS and other family and child care
6 agency.

7 MADAM CHAIR: Thank you.

8 MR. COLBORNE: Q. And you've told us
9 about the firefighting situation. I notice in the
10 witness statement there's reference to trap lines and
11 fishing being affected and also wild rice being
12 affected by roads having to do with logging.

13 Can you tell us about that, please?

14 A. Well, there's trap lines in the
15 immediate vicinity of logging areas, cutting areas, in
16 fact one of my fishing buddies has a trap line in an
17 area that's been for the most part clearcut and he's
18 always stating that the furbearers are just no longer
19 there. In fact, he has encountered problems with
20 individual cutting in the area with respect to has a
21 right to be in that area. In fact, he's been
22 approached at various times by an individual
23 questioning as to why he's in that given area. This is
24 my cutting area, you shouldn't be in here.

25 His response is: This is my trap line, I

1 have been here longer than you, and that is not an
2 isolated case either, there is other areas.

3 Not only is forestry involved, there's
4 also activities like mining, mining explorations. That
5 also has some kind of -- we have a concern with respect
6 to mining activities in and around our area.

7 And as well I addressed a concern about
8 the road itself with respect to -- like, from time to
9 time you'll hear MNR stating that whatever they do with
10 respect to the land they always want to return it to
11 its original state, they don't want to -- I've heard
12 that many times.

13 And in this one place I used to move in,
14 my Dad used to go up in there rice picking before the
15 road went in and we used to have to portage at least a
16 couple of times then traverse sort of a creek system
17 over beaver dams and whatnot and we would end up in a
18 small little lake which used to produce good rice, wild
19 rice.

20 That was hard work, but we always went in
21 there. Since that road went in it affected drainage in
22 that area and I've often gone in there just to check to
23 see if there was any rice. There isn't any. Some
24 grows but it's pretty sparse and I addressed this
25 concern to MNR a number of years ago. It would be

1 about maybe four, five years ago.

2 I, in fact, accompanied Doug Ried to that
3 area. We walked through the bush and I showed him
4 where and advised him of any concerns and whatnot and
5 he assured me that he would address the situation with
6 his superiors and he would get back to me. I have
7 never heard from him since.

8 I know him personally. I don't really
9 know the situation now. He said they were going to fix
10 up the culvert. It's a culvert system sort of thing.

11 Q. There is a reference in the witness
12 statement to clearcutting up to the reserve boundary.
13 Could you tell us which boundary and when that
14 happened, if you know?

15 A. That would be north of us, north of
16 the reservation.

17 Q. And when would the cutting have
18 occurred?

19 A. That was within the -- I would say
20 five, six years ago.

21 MR. COLBORNE: Thank you. Those are my
22 questions of this witness.

23 MR. MARTEL: Could I ask one short
24 question just for clarification.

25 The reserve, is it made up of three

1 different communities? Is that what I am to understand
2 by this Whitefish Bay, Yellowgirl Bay, Sabaskon Bay?

3 MR. KAVANAUGH: We have three reserves
4 per se, but we only use one of those reserves as a
5 residential area while the others are out in Lake of
6 the Woods, one in the Yellowgirl area and the other in
7 the southern part of the lake over my Turtle Portage.

8 Those have been at various times, years
9 ago were inhabited by certain families, but more
10 recently there is nobody living there.

11 MR. MARTEL: Thank you.

12 MS. GILLESPIE: I have no questions,
13 Madam Chair.

14 MADAM CHAIR: Thank you.

15 Mr. Cassidy?

16 MR. CASSIDY: No questions.

17 MADAM CHAIR: Mr. Freidin?

18 MR. FREIDIN: Yes.

19 CROSS-EXAMINATION BY MR. FREIDIN:

20 Q. You made reference to a fishing buddy
21 of yours who commented about his trapline being cut.
22 Can you provide the name of that individual?

23 A. I don't see why not, his name appears
24 in the community profile. His name is Alfred Henry.

25 Q. Are you familiar with whether Mr.

1 Henry's fur bearing returns have gone up, down or
2 remained the same over the last three years?

3 A. Okay. This fall Alfred Henry has a
4 permanent position with the Whitefish Bay education
5 authority. He's the maintenance supervisor and as such
6 he is employed, like, year round, but he is also
7 entitled to time off.

8 Last fall he took five weeks off so he
9 could go work his trapline, which is driving distance.
10 He harvested quite a few -- not very many beaver and
11 other fur bearer.

12 Well, anyways, after having sent his fur
13 to North Bay or whatever it was he sent him, he only
14 made about \$250 out of a whole five weeks and that's
15 not to say because -- I think one of the contributing
16 factors to that was the price of fur is way down
17 because of anti-fur activities all over. That's one of
18 the contributors.

19 Alfred Henry I think has been -- maybe he
20 didn't fill his quota this year, but in previous years
21 he has been pretty good.

22 Q. Has he been able based on your
23 information to fill his quotas in the previous years?

24 A. I think it's safe to say he has, yes.
25 He used to have a trapline out by the Aulneau, too. He

1 is a pretty competent outdoorsman.

2 Q. Okay.

3 MR. FREIDIN: Those are my questions.

4 Thank you.

5 MADAM CHAIR: Thank you, Mr. Freidin.

6 MR. FREIDIN: Oh, I'm sorry.

7 Q. You mentioned clearcuts north of the
8 reserve. Which one of the three sections of the
9 reserve does that refer to?

10 A. That would be Whitefish Bay, the main
11 community, but we have another tract of land over by
12 Ried Narrows.

13 Q. The main community that you are
14 talking about where they clearcut north of there there
15 is a reserve right under Lobstick Bay. Is that the
16 area that you are talking about?

17 A. That would be north of Lobstick Bay.
18 It isn't actually right on the boundary, but it's just
19 north of us which we consider our traditional land use
20 area.

21 Q. Right.

22 A. And that is our concern.

23 Q. Just let me show you this little
24 diagram which sort of sets out where we understand
25 Whitefish Bay is. That is this little section out

1 here. (indicating)

2 Can you point out which section you were
3 talking about when you said there was a clearcut area
4 north of the reserve?

5 A. Around this area. (indicating)

6 Q. You are indicating an area north of
7 Lobstick Bay then?

8 A. Yes.

9 Q. Thank you.

10 A. Again, I would like to make it a
11 point that we consider that area traditional land
12 usage.

13 Q. How far away -- you say it wasn't
14 right up to the boundary. How far away was it?

15 A. I can't be very accurate. Maybe as a
16 crow flies, maybe a mile, mile and a half, two miles.

17 Q. Thank you.

18 MR. FREIDIN: Those are my questions.

19 MADAM CHAIR: Thank you, Mr. Freidin.

20 Any re-examination, Mr. Colborne?

21 MR. COLBORNE: No, thank you.

22 MADAM CHAIR: Thank you very much, Mr.
23 Kavanaugh.

24 MR. COLBORNE: If there is no objection I
25 am advising Mr. Kavanaugh that he can be excused. I

1 think he has to travel to Thunder Bay now.

2 MR. FREIDIN: I hope you are going by
3 ground. I understand the planes may not be landing.

4 MR. KAVANAUGH: Well, I don't trust these
5 planes out here.

6 MR. MARTEL: Thank you. You've just made
7 our day.

8 MR. FREIDIN: If you want to wait you may
9 have some passengers.

10 --- (Mr. Kavanaugh withdraws)

11 MR. COLBORNE: My next witness, as I have
12 already said, will be Roy Carpenter.

13 DIRECT EXAMINATION BY MR. COLBORNE:

14 Q. Mr. Carpenter, we know you are from
15 the Lac Seul Reserve and we know that you are the
16 representative for purposes of today to provide some
17 information about the community or communities at Lac
18 Seul and I think we know from yesterday where Lac Seul
19 is, although I may ask you to go up to the map once
20 again.

21 I want to begin by asking you if you have
22 read the description referable to your community
23 that's included in the written witness statement that
24 has been filed? Have you read that?

25 MR. CARPENTER: A. Yes, I have.

1 Q. Did you notice any serious errors or
2 omissions especially in regards to forestry?

3 A. The only thing I question on that is
4 that I think when they were talking about logging
5 activities I think it was done in earlier years. I
6 would say 1950.

7 Q. There is a reference in the witness
8 statement at page 17 that says:

9 "The prime stands on the reserve were cut
10 by outside contractors in the 1960s and
11 1970s."

12 Is that the passage you are referring to?

13 A. That's the one.

14 Q. You think it was earlier?

15 A. It definitely was earlier.

16 Q. Now, sir, could you take a look at
17 the map once again and tell us where there are good
18 stands of timber in the convenient access area on and
19 around the reserve; that is, good stands of timber that
20 have not been cut recently?

21 A. The Lac Seul Reserve is located right
22 to the south shore of Lac Seul itself. It's in the
23 form of an L shape. I guess if you were to fly north
24 of the reserve, flew from east to west, then it would
25 represent the letter L, capital L.

1 Going back to the time when the logging
2 activities took place, we are going to go way back in
3 time here, shortly after the second world war there was
4 a prison camp here at the arrows near Devil's Elbow,
5 one over to a place called Coccix Portage which is
6 located here. They also had a little logging camp up
7 here. Again, those were prisoners of war.

8 That's going back in the late 40s after
9 the war. No stumpage was paid to the Band. No record
10 of it. It was only -- it wasn't clearcut, it was all
11 done with axes and saws. So a cut would have been very
12 slow. However, some timber was taken out.

13 Then in the early 50s, we had another
14 outside contractor who did some business on the reserve
15 for I believe about two and a half years. When I was
16 about 9 or 10 years old he was in and around that area
17 and then he left. He left because I think we went
18 bankrupt. So he claims anyway. Maybe he didn't want
19 to pay the wages out to the natives.

20 Then in the 1960s, there was some logging
21 activity going on in the reserve which lasted for about
22 four years, maybe five and substantial wood was taken
23 from the reserve. Then it carried over into the 1970s
24 for a while, for a very short time, maybe for a period
25 of one year.

1 Then in the late 70s I was working for
2 Great Lakes at that time. I thought it would be a nice
3 time to get out of the company and maybe try it on my
4 own, seeing that I had many years of experience with
5 mechanical operation. I basically knew how to take
6 care of a skidder and the maintenance. So I acquired
7 one. I didn't have too much difficulty in maintaining
8 it because I had the ability to produce some wood.

9 Just around that time I also realized
10 that it was important to put something back. So we
11 instigated tree planting. So tree planting took place
12 in the summer of 1980 I think it was. So all that that
13 we clearcut now is -- we have reflourished it and it is
14 beautiful to walk back in there again to see the young
15 seedlings coming up. They are maybe about 18, 15 to 18
16 feet tall in just 10 years.

17 Again, to illustrate how the bad guy is
18 always sometimes for trade, you know, in the case of
19 myself. People are always against logging and I can
20 see their point, but I had a point too, to try and keep
21 the wolf away from my door with the banker.

22 So I was Chief for a while and I
23 instigated at the same time a tree planting activity
24 going on in our reserve, but that never came about in
25 my term; that followed the year after. When the new

1 chief came in everybody said: Oh, this is a new nice
2 chief, he is doing all this for us. They forget that I
3 instigated the whole thing and you know how bureacracy
4 works, it works very slow.

5 I didn't get any credit for it, I got the
6 "x" on it because I cut it down, but that's how -- in
7 Lac Seul right now there is no logging activity at the
8 present time. There are plans to get in on the
9 Buchanan limits once the road is done and once the
10 ferry is in place.

11 Q. Where are the Buchanan limits?

12 A. They are north of Lac Seul right on
13 here. Right across from the Lac Seul Reserve.
14 (indicating)

15 Q. There is a reference -- sorry. There
16 is a reference in the witness statement to a road. Is
17 that a road that goes through the reserve to get to
18 those limits that you have just mentioned?

19 A. Right now the road goes outside the
20 reserve. It comes off Goody Lake Road and then on
21 to -- it crosses the Lynx, goes by Lynx Lake and then
22 up to Cherry Lake and then up to (inaudible) Lake and
23 then finally it goes into the reserve..

24 Q. Is that road going to extend through
25 the reserve to the Buchanan limits that you just

1 mentioned?

2 A. Well, it's going to fall short
3 because they have to cross a stretch of water here and
4 that's where the ferry is going to go.

5 Q. Actually what I am getting at is,
6 there is a reference in the witness statement to some
7 kind of expectation that there will be jobs for Band
8 members. I guess it is when the road goes through or
9 under an agreement with Buchanan that has to do with
10 the road. Do you have any information about that?

11 A. Okay. At the present time they are
12 going to -- they already started to grub the road and
13 put the roadbed in place. That road, proposed road is
14 going to go right from Frenchman's Head and it's going
15 to go across Young Narrows on to the Crown land and
16 then back on to the reserve again.

17 The reason for this is, MNR doesn't want
18 to have to put up with the hassles from the public.
19 Thereby thinking that we can police it, in other words,
20 for the people that go fishing and whatever activities
21 that they are involved with in their leisure time.

22 Q. So MNR thinks that it is desirable to
23 go across the reserve because this will discourage, I
24 guess, recreationists from coming in and using the
25 road; is that what you are saying?

1 A. I think that's the whole point
2 because there is a camp owner over on the Rote Lake, I
3 think it is, and he is from the Dryden area there. I
4 think they are trying to keep their distance from him.

5 Q. In the witness statement it says that
6 the Band is interested in tree planting and
7 silvicultural work but there isn't any done right now.

8 A. We completed one here just a week ago
9 right on our reserve.

10 Q. Well, maybe this information then is
11 not up to date. It says:

12 "A plan and financial assistance are
13 required before getting tree planting and
14 silvicultural work going."

15 But there is something underway now?

16 A. Well, it is just being completed, but
17 I think what it refers to is the outside work on Crown
18 lands. We have a Band member that takes these tree
19 planting contracts on the outside sometimes and he gets
20 small contracts and they will do "x" number of thousand
21 of trees and that's that. We also take outside
22 contracts for hand tending.

23 Q. When you say we, is that the Band,
24 that it goes through the Band to get the contracts?

25 A. No, I'm speaking for the individual

1 that does that.

2 Q. One individual or more than one?

3 A. Well, he usually initiates the
4 undertaking to obtain a contract and then he hires the
5 local boys.

6 Q. How many jobs would that create?
7 Let's take last year for an example or any example you
8 want to give us.

9 A. With a plantation of 75,000 trees we
10 usually try and put 20 people to work for, say, 10
11 days.

12 Q. And what about hand tending?

13 A. It depends on the distance, it
14 depends on the set time that they have to try and
15 complete their contract.

16 Q. Let's take last year as an example
17 again. Were there jobs created doing that for Lac Seul
18 members?

19 A. You mean the tree planting?

20 Q. The hand trending.

21 A. Yes.

22 Q. How many or about how many?

23 A. I think it would be safe to say a
24 dozen people, maybe 10 because they have to consider
25 the accommodations and also the...

1 Q. How many people?

2 A. I would say about 10.

3 Q. And for how long?

4 A. About three weeks.

5 Q. There is mention in the witness
6 statement about damage to traplines from there having
7 been cut over. Do you have any information yourself
8 about that? There are some names of trappers mentioned
9 here.

10 A. Immediately to the west and northeast
11 and to the northwest, traplines are affected by
12 clearcutting.

13 Q. What is the exact effect or effects
14 as far as you know?

15 A. I spoke to one of the trappers not so
16 long ago and he tells me that there is a decline in the
17 marten. Although he appreciates the accessibility to
18 go over land, he still doesn't appreciate the fact that
19 he is losing his fur bearing animals, pertaining to the
20 marten.

21 Q. Just one last question, Mr.
22 Carpenter. There is a reference in the witness
23 statement to -- it says:

24 "Members of the Band think that MNRs
25 enforcement personnel are uninformed

1 about Indian rights."

2 Now, I don't think you were the source of
3 the information in this statement; is that correct?

4 A. No, I wasn't.

5 Q. So I don't know whether that
6 statement is one that refers or not to what you think,
7 but is that what you yourself think?

8 A. Could you repeat that phrase?

9 Q. Would you just speaking as an
10 individual and not as a representative of the Band,
11 would you agree with that statement that:

12 "MNR enforcement personnel are
13 uninformed about Indian rights."

14 Do you think that's true?

15 A. Well, I think it would be safe to say
16 perhaps they don't get all the information.

17 Could you let me add something to that?

18 Q. Certainly.

19 A. We have one CO from Lac Seul and is
20 currently working for the Ministry of Natural Resources
21 in Sioux Lookout. His name is Roy Bull. He would be
22 aware of the Indian Act or he would be aware of the
23 Indian rights seeing that he is a Treaty Indian.

24 Q. How long has he been a conservation
25 officer?

1 A. Oh, I think it's safe to say he has
2 been in that position for about 10 years, maybe more.

3 Q. Now, Mr. Carpenter, there is some
4 interest here about the number of Indians working for
5 MNR and so I just want to pursue this a little bit
6 because if I am not mistaken, yesterday you said there
7 is another member of the Lac Seul community who works
8 full time for MNR in connection with fire fighting.

9 Did I understand that correctly?

10 A. That is true.

11 Q. And that's an all year job?

12 A. Well, he has been going to the base
13 all winter long and he has gone to training courses
14 down in the Sault to be qualified through whatever he
15 is training for.

16 Q. Okay. Did you also mention yesterday
17 that there was at least one member of the Lac Seul
18 community that worked seasonal full time, or did I
19 misunderstand you?

20 A. That is correct.

21 Q. Is there anybody else who is a member
22 of Lac Seul Band as far as you know who is working for
23 MNR?

24 A. Not within our immediate area. Maybe
25 some Lac Seul Band member in the distance that I'm not

1 aware of.

2 Q. Now, Mr. Bull, does he live on the
3 reserve?

4 A. He's talking about coming back after
5 he retires.

6 Q. The other individual, the other one
7 who works for full time, does he live on the reserve?

8 A. He lives on the reserve, yes.

9 MR. COLBORNE: Those are my questions.
10 Thank you.

11 MADAM CHAIR: Thank you, Mr. Colborne.
12 Any questions?

13 Ms. Gillespie -- Mr. Cassidy, sorry.

14 MR. CASSIDY: That's all right.

15 CROSS-EXAMINATION BY MR. CASSIDY:

16 Q. Mr. Carpenter, you were talking about
17 the road that is proposed to go through your reserve
18 and I believe you indicated that one of the reasons for
19 it going through the reserve is that MNR wants to keep
20 the road away from the camp owner?

21 A. No, no, from the general public that
22 is --

23 Q. Are you -- sorry, go ahead.

24 A. Opposing perhaps the abuse of fish
25 and wild game perhaps.

1 Q. Right.

2 A. Just to have a general policing of
3 the flow of the -- the traffic going on that road.

4 Q. That policing would be done by your
5 Band; is that correct?

6 A. Well, I guess maybe that's why they
7 would like to see it go through the reserve. I think
8 it's fair to assume that would be reason for it.

9 Q. But you referred to a camp owner,
10 that they wanted to keep it away from a camp owner. Do
11 you remember saying that?

12 A. That camp owner is to the west of us
13 along the CNR line there.

14 Q. Is that a fly-in tourist outfitter
15 operation?

16 A. I think that it is.

17 Q. So is it fair to say the MNR is
18 looking to place the road so it doesn't conflict with
19 his use of whatever lake he is on? Is that fair to
20 say?

21 A. I think that's a fair assumption to
22 make.

23 Q. You were talking about harvesting on
24 your reserve land. I take it that any harvesting that
25 has been or would be done on your reserve would have to

1 get the permission and would be under the management of
2 your Band; is that correct?

3 A. In previous years it used to be dealt
4 with with Band council and Indian Affairs.

5 Q. Right. It would have to get the
6 approval of the Band council and Indian Affairs for
7 harvesting to be on the reserve land; is that right?

8 A. That is correct.

9 Q. So to the extent that there was any
10 clearcutting on your reserve, it would be with the
11 permission of the Band and/or Indian Affairs; correct?

12 A. Mm-hmm.

13 Q. And that was the clearcutting that
14 you were in fact engaged in?

15 A. That's right.

16 Q. You got the permission of your own
17 Band to cutclear on your reserve land?

18 A. Well, the Band wanted the clearcut
19 because it was mature.

20 Q. Otherwise it would have fallen down?

21 A. Perhaps.

22 MR. CASSIDY: Those are my questions,
23 Madam Chair.

24 MADAM CHAIR: Thank you, Mr. Cassidy.

25 Ms. Gillespie.

1 CROSS-EXAMINATION BY MS. GILLESPIE:

2 Q. Mr. Carpenter, I just have a question
3 about the cutting over of the traplines. I am
4 wondering whether you know whether the trappers had any
5 notice that the cutting was going to take place before
6 anything happened?

7 A. I think it's safe to say that they
8 did receive notice.

9 Q. Did they make any attempt to object
10 to the cutting or advise of their traplines being
11 interfered with?

12 A. I would like to abstain from that
13 because I don't really have the real answer for it.

14 Q. Okay.

15 A. I know from my point of view I
16 certainly would object to it, but whether they listen
17 or not is entirely another story.

18 Q. So you don't know whether they did or
19 not?

20 A. No.

21 MADAM CHAIR: Are you finished Ms.
22 Gillespie?

23 MS. GILLESPIE: Those are all my
24 questions.

25 MADAM CHAIR: Mr. Freidin?

1 CROSS-EXAMINATION BY MR. FREIDIN:

2 Q. Mr. Carpenter, you were talking about
3 the road that goes partly through the reserve. You
4 also made reference to a road, I believe, to the ferry.

5 Are those the same roads or are they
6 different roads?

7 A. That will be the same road.

8 Q. The same road?

9 A. Yeah.

10 Q. Has construction of that road
11 commenced?

12 A. I would say that probably 70 per cent
13 of the work has been completed on the road.

14 Q. And is the road actually being
15 constructed on the reserve land at the moment, or is
16 part of it?

17 A. Part of it is on the reserve, the
18 other part is on Crown lands.

19 Q. You mentioned that there was -- some
20 of the trappers had part of their trap lines cut-over.
21 Do you have any information as to the percentage of
22 their trap lines which have been cut-over in the past
23 years?

24 A. I don't really have the actual
25 percentage, but I think it would be fair to assume that

1 probably in the neighbourhood of 85 per cent of their
2 trap line will be clearcut.

3 Q. And is that something which has
4 happened over the last two or three years based on your
5 information, or is it something which has occurred over
6 a longer period of time?

7 A. That has happened in the last 10
8 years. I would like to just bring up to your attention
9 that Buchanan Forest Products cut and also prior to
10 that Abitibi cut large tracts of timber over to the
11 southeastern portion of Lac Seul and that's -- now
12 we're in another geographical location at a place known
13 as Sand Bay up in that area and going up towards
14 Eyestone and then into Atally Lake and so forth, going
15 up into Adam Hay, and then from Adam Hay they go
16 northward and they cross the river, and then they swing
17 westwardly and then south-westwardly down into Lac
18 Seul. They've made that circle.

19 Q. And the trappers you're talking
20 about, are those the trappers that are referred to in
21 the witness statement?

22 A. On the witness statement we have
23 Anderson Capet, his trap line will certainly be
24 affected; John Boal, his trap line is located to the
25 south of Lac Seul, again, north of the CNR line. And

1 there are others listed here as well, I think their
2 trap lines are over to the northeast.

3 Q. Those are the trappers you're
4 referring to though when you refer to --

5 A. Mm-hmm. There is one other trapper
6 not listed here.

7 Q. Yes.

8 A. And that's Lillian Wesley or Lillian
9 Goodman and she's located over on the Twine Lake
10 directly north of Lac Seul there on -- there used to be
11 a logging camp there back in early 1970s, had a number,
12 Camp 19.

13 Q. And the John Boal that's referred to,
14 I understand there's a John Bole who's the father and
15 there's the son by the same name; is that right?

16 A. Yeah.

17 Q. Which one are you referring to there?

18 A. I think it's John Bole, Senior.

19 Q. Thank you. I understand, Mr.
20 Carpenter, that there are regular meetings between the
21 Ministry of Natural Resources and the band
22 approximately monthly to discuss matters of mutual
23 interest; is that correct?

24 A. I think that's correct.

25 Q. And am I correct that those meetings

1 are not just limited to timber related matters but can
2 deal with matters such as enforcement and other matters
3 of concern?

4 A. That is true.

5 Q. And am I correct, sir, that in
6 relation to enforcement, in fact the last meeting that
7 took place between the MNR and the band, the last
8 regular meeting, did deal with the issue of
9 enforcement, and concerns that the band had regarding
10 the fish and game were raised at that time?

11 A. I wasn't there at the meeting.

12 Q. All right.

13 A. So I can't answer for that particular
14 question.

15 MR. FREIDIN: Those are my questions.

16 Thank you.

17 MADAM CHAIR: Thank you Mr. Freidin.

18 MADAM CHAIR: Mr. Colborne?

19 MR. COLBORNE: One question on
20 re-examination.

21 RE-DIRECT EXAMINATION BY MR. COLBORNE:

22 Q. When did these regular meetings
23 between MNR and the band start?

24 MR. KAVANAUGH: A. I don't really have
25 the actual date, but I know they have been meeting with

1 MNR for quite some time now.

2 Q. Can you give us an estimate.

3 A. I'd say five within the last three
4 years.

5 Q. It would have started within the last
6 three years?

7 A. Mm-hmm.

8 MR. COLBORNE: Thank you.

9 MADAM CHAIR: Thank you very much, Mr.
10 Carpenter.

11 MR. COLBORNE: I would like about five
12 minutes and then I'll get right back into including the
13 witnesses who are here and available, if I may have
14 that recess now.

15 MADAM CHAIR: Go ahead, Mr. Colborne.

16 ---Recess taken at 2:35 p.m.

17 ---On resuming at 2:50 p.m.

18 MADAM CHAIR: Please go ahead, Mr.
19 Colborne.

20 MR. COLBORNE: Thank you. The next
21 witness will be Chief Willie Wilson who we have heard
22 from in Panel 2, he's also representing his own band in
23 Panel 3, he's already been sworn.

24 DIRECT EXAMINATION BY MR. COLBORNE:

25 Q. Chief Wilson, have you recently

1 looked over the information in the Panel 3 witness
2 statement concerning your band; that is, the Rainy
3 River Band?

4 A. Yes.

5 Q. Are you the main source of the
6 information that is included there?

7 A. Yes.

8 Q. Are there any major errors or
9 omissions, particularly in terms of the connection
10 between your band and forestry, that you have noticed
11 in looking over this information?

12 A. No, but I would like to give some
13 historical background to the whole thing.

14 Q. Certainly.

15 A. Okay. Any time?

16 Q. I wonder if you can just show us
17 though - I don't think it has been indicated yet - on
18 the map where your home reserve is.

19 And if this is what you were going to get
20 into - I'm not sure what it is - but if you're going to
21 be speaking about the other Rainy River reserves, maybe
22 you could show them to us at the same time.

23 A. Okay. I think my people would like
24 to see me at home too, I have been rarely at home
25 lately.

1 Let me show you the six reserves. There
2 actually was seven reserves stretched right from the
3 mouth of the Lake of the Woods to Little Forks which is
4 close to Fort Frances.

5 Now, there are reserves stretched out
6 along that river area. Those reserves are the
7 Wildlands Reserve closest to the Lake of the Woods;
8 Hungry Hall, Long Sault where the famous Manitou Mound
9 is going to be -- or is, and Manitou Reserve where we
10 now reside which is on the junction of Highway 11 and
11 71, and Little Forks which is close to Fort Frances and
12 the Little Forks River is on the American side.

13 Now, that is where all of the people that
14 now reside in Manitou Reserve all come from, all come
15 from that whole river system.

16 MR. MARTEL: You live on both sides of
17 the border?

18 CHIEF WILSON: We used to, yes.

19 MR. MARTEL: Now?

20 CHIEF WILSON: No, we don't, no. But we
21 do have dual citizenship, we believe it anyway.

22 Okay. Maybe just to give you a bit of
23 more history. Our livelihood was derived mainly from
24 fishing of sturgeon, hunting and trapping along that
25 area and eventually when we didn't have any immigration

1 laws you guys came in and we started cutting for you
2 people in pulpwood and we started selling the gravel to
3 yous for your roads and we started picking berries for
4 the same purposes, for our own usage.

5 We have at the moment a land claim of
6 those six reserves outside of the Manitou Reserve and
7 the whole purpose of Ontario wanting that land was for
8 the agricultural settlers.

9 Now, in that area there was a lot of
10 forest land and we had -- the communities had their own
11 agricultural pieces of land and it is very rich, prime
12 land for agriculture and forest rehabilitation.

13 Today we are into various enterprises
14 that supplement all of those things that we've lost.
15 We've lost any opportunities in the forest industry of
16 that area, any opportunities in the agricultural area,
17 our fishing was completely depleted or destroyed as a
18 result of the power dam that was built in Fort Frances
19 and the sturgeon fishing that took place in the early
20 1900s.

21 Today we have now a sawmill as it was
22 previously mentioned. I have a little bit of history,
23 and I just corrected that, I think I said early 70s,
24 mid-70s we had a DCL in the Crow area which is
25 approximately 40 miles - what would 40 miles be, 60

1 kilometres - someplace around there, and we had to
2 cross a lake in order to get to that DCL and we didn't
3 have the kind of financing or the kind of capital to
4 continue the operation.

5 In the early 80s we had to let it go and
6 part of it I think went to Trilake Timber, not knowing
7 how to negotiate properly or to demand properly or to
8 manage properly, we lost that opportunity of a DCL.

9 In 1985, after realizing our
10 incapacibilities of not having the capital, we went into
11 joint venturing and hired out the operational
12 management of it, as well as in that agreement we have
13 revenue sharing, et cetera.

14 The equipment is owned by Long Sault
15 Lumber, the Long Sault Lumber is owned by the Rainy
16 River Band. We have approximately 17 jobs inside the
17 mill at peak times and we are probably the only sawmill
18 that works under piecework, and from the looks of it I
19 think that some of the guys do very well.

20 Our raw material we have to buy in the
21 open market because we don't have limits, we don't have
22 areas to cut.

23 We have been talking to an individual who
24 may want to sell his area or his limits, and at the
25 moment right now we are seeking resources to do the

1 feasibility study and look at the possibility of some
2 sort of joint investment in that area because it's
3 going to take quite a lot of money to buy the area, as
4 well as buy the equipment that is needed to go into
5 that area.

6 We haul at the moment right now in the
7 open market up to 225 kilometres. We have no Indian
8 people working out on the logging -- or bush
9 operations. We don't -- as I said before, we don't
10 have a licence.

11 In 1990-91 we modernized our mill, we
12 spent approximately \$400,000 in the mill and now we are
13 mostly operating as a red and white pine specialty
14 sawmill.

15 One thing I like to point out, previous
16 to that there we were very much encouraged by MNR to go
17 into a sawmill, a poplar sawmill operation, and I don't
18 know of any lucrative poplar sawmill operations. I
19 think it was a means of wanting us to go down the
20 drain.

21 I think in terms of the future we would
22 like to convert our mill operations into more of a
23 diversified operation where we can look at the
24 possibility of using poplar and other species. We hope
25 to obtain a licensed area where it will certainly give

1 us the sustainable amount of wood to keep the sawmill
2 operating.

3 We would like to be able to provide
4 management services to other communities and train for
5 the -- and train for the technical and mechanical
6 harvesting. The chip and haul feature of logging of
7 the future in the forestry may be a way and it's going
8 to take a lot of capital to do that, so we will need
9 some assistance and some help in obtaining capital,
10 equity or other kinds of investments.

11 We also have in our community a wild rice
12 operation. We have various kinds of consultants,
13 advisory services, we have a shopping mall in Fort
14 Frances.

15 Our future, we are in the midst of, where
16 I just mentioned, the Long Sault, there is -- we are
17 hopefully in the process of putting together a plan
18 that will house the Heritage Centre totalling a cost of
19 \$12-million and it houses the Lowell Culture Mound and
20 some of this here goes up to 5,000 years old and
21 obviously that gives us a long history long back before
22 we were thought of, the earliest culture is the Lowell
23 Culture -- I mean, Black Tar Culture which is more
24 recent and began -- the evidence from the
25 archaeologists and historians that the migration of

1 trade was right in our area. So we have been in the
2 wide, wide world of trade at the Manitou and along that
3 whole river system. The trade as well extends to the
4 north to Hudson Bay and to the east and to the west.

5 As I said, our future, we are in the
6 process again of rehabilitating the sturgeon area,
7 we're in the process of doing a study in a fishery
8 hatchery and our immediate response already from MNR is
9 you can't do it, there is no hatchery policy in
10 Ontario, and so consequently they're trying to -- I
11 believe that without really being serious about it,
12 although they're providing assistance, and I think
13 there are some individuals within the organization that
14 believe it can happen.

15 I am also involved in regards to a peat
16 moss energy plant for the Rainy River District. We
17 hope to be able within the next year putting up a
18 lumber enterprise in Fort Frances which will house --
19 which will include other reserves in buying into it and
20 we will be something like the local lumber store here
21 in Kenora or elsewhere.

22 I don't know what else I can add to it.
23 Yes, we did work in regards to the forest, we did work
24 in Fort Frances as firefighters and we were considered
25 as the card-carrying Indians where we could go

1 internationally or across the province or whatever, and
2 it was a federal -- it was understand a
3 federal/provincial agreement where it was no cost to
4 the Ontario government, and when the backlash happened,
5 obviously the Indian jobs were lost as well, even
6 though they may have been good firefighters.

7 So at the moment right now, yes, we may
8 be considered as emergency, we don't go through the
9 through the processes Mr. Seymour has indicated, we
10 haven't taken any training, but we do have
11 firefighters, we have our own fire truck, and we have a
12 system in the adjoining municipalities which have to be
13 certified. So I think I guess that gives us the title
14 of being a firefighter. I don't know if there's a
15 difference between house fires and tree fires.

16 I guess that's about it for the time
17 being, and if there's any questions, the more I say the
18 more questions you'll ask.

19 Q. Thank you. I have a couple of
20 further points that I wanted you to expand on. One is
21 a reference at page 26 of the witness statement to, and
22 here are the words:

23 "An unadmitted policy of squeezing small
24 operators by giving them impossible
25 contracts and then saying he must work

1 more efficiently to build up a track
2 record before we give you better
3 contracts."

4 Did you --

5 A. I guess in reference to that, I look
6 at the dilemma we went through in the DCL we had in
7 Crow.

8 First of all, we have to cross the lake,
9 it is a deep lake where it requires a lot of ice
10 building, a lot of heavy cost in building a road across
11 the lake, as well as the terrain of building a road
12 there and the cost of getting to the DCL area, I
13 believe it was around 11 miles and in today's dollars,
14 if you were to put a half million dollars to each mile,
15 certainly we don't have that.

16 We didn't have organizations such as IFDP
17 to be able to assist us in planning out the area.
18 These were all plans that was done by MNR and said:
19 Okay, you cut right here, even though the tree maybe
20 over here, but you have to go cut over here on top of
21 this hill or rock or whatever.

22 And it didn't really give us the
23 opportunity to build up the credibility or to build up
24 our resource base in order to continue operations.

25 Q. In that quote that I just read from

1 you it refers to small operators. I want you to
2 contrast that, if you would, with large operators.
3 What is your evidence or understanding at least
4 concerning the opportunities that are available to
5 large operators?

6 A. Comparing to Boise Cascade for an
7 example where they are given - a very, very large tract
8 of land, given an opportunity to go to the easiest area
9 where it's low costing at the beginning and build up
10 their resource base and build the roads as they
11 continue into the area, so that you can mix the good
12 and bad later on where there isn't a heavy cost in one
13 year, and I think that's what we hear from Industry
14 today is that it's costing because of recession, et
15 cetera, they may have taken the cream off the top at
16 the beginning, because of recession, now it's costing
17 them more money.

18 So consequently we didn't have the
19 opportunity of long-range planning or the opportunity
20 to be able to decide where this area would be.

21 Q. Just one last question. There is a
22 reference which forms the last sentence in the witness
23 statement concerning your community as follows:

24 "There is also concern about destruction
25 of medicinal plants; that is, destruction

1 of medicinal plants caused certainly by
2 road access being provided, possibly by
3 other factors associated with forestry as
4 well."

5 Could you expand on that, please?

6 A. Yes. Okay. To be more vocal on that
7 statement, I guess the Long Sault area where the
8 Manitou Mounds are, MNR -- through MNR and there was a
9 study done, there are plants that are not indigenous to
10 the area, 1; 2, many of the plants that's been used by
11 our people for generations for medicinal purposes or
12 for other purposes.

13 Now, the concern we have is that these
14 plants, because of chemical spraying, because of roads
15 going through and because of logging operations and for
16 other various reasons we are very concerned.

17 And consequently -- but at the same time
18 we are never advised on where these things are going to
19 be nor - and I think I have to -- I don't think I have
20 to apologize, but I have to bring to your attention
21 that many of these, plants particularly myself, even
22 though I am not a medicine man, I don't understand what
23 those plants are but I do respect them, and the areas
24 of the Long Sault, for example, we have circled them
25 and we have not questioned the uses of those plants,

1 but the older people and the medicine men have
2 identified them as usage.

3 So I think they're very important.

4 MR. COLBORNE: Thank you. Those are my
5 questions.

6 MADAM CHAIR: Thank you, Mr. Colborne, Ms.
7 Gillespie?

8 Mr. Cassidy? I'm sorry, I don't know why
9 I keep inviting the MOE to cross-examine before you go.

10 MR. CASSIDY: Hard to see me for a
11 change, I'm behind Mr. Colborne.

12 CROSS-EXAMINATION BY MR. CASSIDY:

13 Q. Who has this policy? I'm not clear
14 who you are talking about. Are you saying that Boise
15 has this policy or the MNR has this policy, or who has
16 this policy?

17 CHIEF WILSON: A. Which policy are you
18 talking about?

19 Q. The one that Mr. Colborne referred
20 you to and you just spent a fair time talking about
21 that's referred to on page 26, the policy of squeezing
22 small operators. Who has this policy?

23 A. Well, let me -- okay. First of all,
24 Boise does not have -- does not have the union
25 operations as they had, they're probably one of the

1 strongest companies who's been able to break a union
2 and have been able to develop independent operations,
3 owner/operator operations.

4 Q. So they developed small independent
5 operations?

6 A. Well, it's not so much that they're
7 small, there's some good size ones and you're looking
8 at a hundred thousand cords compared to a hundred
9 cords, that is quite a sizeable difference.

10 Now, they have their loyalties to these
11 people because these are the people that helped bring
12 upon the independency in the cost of wood, a lot
13 cheaper too.

14 Q. So is it Boise or MNR?

15 A. There is -- the opportunities of new
16 people coming on is very remote.

17 Q. Oh, I see. And that's Boise's
18 unadmitted policy, in your view?

19 A. Yeah.

20 Q. What is an unadmitted policy? What
21 do you mean by those words?

22 A. I think the priority going to the
23 independent operators who have been there and the
24 loyalty to those independent operators.

25 As well as to the farming district in

1 regards to winter cutting, for an example, it goes to
2 the -- it goes to the independents first, to the
3 farmers next, and if there's anything left they may go
4 to an Indian reserve, which is easily access to, like,
5 for an example we have poplar in our area and we
6 have -- we've had up to as much as 3,000 cords cut in
7 our community in one given year.

8 Q. Well, when you use the words
9 'unadmitted policy' I take it you're agreeing then --
10 you would agree with me that Boise has never admitted
11 to such a policy and that's why you used the words
12 unadmitted policy?

13 A. Well, if you want to call it a
14 loyalty policy you can call it that too.

15 Q. Do you see something wrong with
16 having loyalty to operators who provide you with
17 service. Is there something wrong with that, in your
18 view?

19 A. Yes.

20 Q. Oh.

21 A. If you have, okay, okay, sawmill
22 operators such as ours. Other sawmills operators when
23 they decide to close their shop down, and there have
24 been a few of them in our area, the first choice is not
25 to the next sawmill operator, the decision there

1 obviously goes to Boise because the commitment, the
2 wood is there.

3 So I guess there is a policy right now
4 where the company -- companies like Boise have said:
5 Okay, we will trade with sawmill operators cord for
6 cord. Well, if you don't have a licence or a permit or
7 a DCL to trade with, what have you got.

8 Q. So if I understand then, you disagree
9 with one company being loyal to another company because
10 it provides that company with good service? That's the
11 bottom line?

12 A. Okay. I have been here for the last
13 5,000 years and you compare that loyalty to an
14 immigrant who is coming here yesterday and then all of
15 a sudden gets priority over the resources. Now, tell
16 me where the loyalty is?

17 MR. CASSIDY: I have no further
18 questions, Madam Chair. Thank you.

19 MADAM CHAIR: Ms. Gillespie?

20 MS. GILLESPIE: I don't have any
21 questions, Madam Chair.

22 MADAM CHAIR: Mr. Freidin.

23 MR. FREIDIN: Just a couple.

24 CROSS-EXAMINATION BY MR. FREIDIN:

25 Q. You were talking in relation to

1 medicinal plants concerned with roads and chemicals.

2 You made the comment you were never advised where these
3 things would occur. Are you talking in the past or are
4 you talking today?

5 CHIEF WILSON: A. I believe that we're
6 still talking today. I understand that there is a new
7 Heritage Timber Act coming on which will allow some
8 discussion in those areas. Until that's enacted, I
9 think that we don't have a mechanism to be able to make
10 those discussions.

11 One other thing I would also like to
12 point out. I think that one not understanding -- in
13 history, one not understanding the culture and the
14 background of Indian people living in this country in
15 the interest of that area, companies not understanding
16 that, governments not understanding that.

17 Q. It is important I understand the
18 point. It is important that government and non-native
19 understand these things.

20 What I am more concerned about is your
21 suggestion that you are not given notice about that.
22 There are a lot of timber management plans which are
23 prepared in the Rainy River District and if your Band
24 received notice that there would be a timber management
25 plan being prepared and if your Band received notice of

1 open houses and if your Band received notice of annual
2 work schedules, would those notices come to your
3 attention?

4 A. Most recently, yes, they have been.

5 Q. Most recently you have been receiving
6 those notice. When did you start receiving those
7 notices on a regular basis?

8 A. Most likely after the EA hearing
9 started.

10 Q. That goes back longer than what I
11 would like to remember, but the EA hearings themselves
12 began May the 10, 1988 and my involvement started some
13 time before, but going back to '86, '87?

14 A. Okay. Some of the planning that has
15 been -- I mean, some of the FMAs that we have been
16 given notice to, we are given notice to the adjacent --
17 the closest adjacent to reserve.

18 Now, other reserve may be using plants
19 from that given area and not necessarily that reserve
20 that's adjacent to a plan.

21 Now, let me again -- as I said to you
22 before, I as Chief or we as a Chief in Council
23 sometimes don't understand what these plants are. They
24 are very sacred to medicine men and to some of the
25 elders who use them.

1 Q. The idea of this timber management
2 planning process that the Ministry has put forward is
3 that they want to make sure that your Band has notice
4 and they want to make sure that if there are people in
5 your community that know about these medicinal plants,
6 know where they are, have some suggestions as to how
7 they should be protectaed, that's what the whole
8 process is all about.

9 No. 1, you have told me you get notice;
10 No. 2, are your people who are concerned about that, do
11 they feel comfortable or are they eager to share their
12 concern with the Ministry and with the companies to try
13 and tell them where these things are to take care not
14 to damage them? That's what we were all concerned
15 about.

16 A. I think there will have to be a
17 process to that because, first of all, there has to be
18 a trust relationship created. If that doesn't
19 happen -- you can send all kinds of notices. If you
20 look at some of our elders and talk to some of our
21 elders, paper doesn't mean a damn thing to them.

22 Q. I understand that.

23 A. If we don't have personal
24 communication then.

25 Q. I understand there is a lot of

1 history that goes back and mistrust perhaps has
2 developed.

3 What I am trying to deal with is how do
4 we develop that trust? I am just talking about
5 preparing timber management plans. It seems to me that
6 the way to change that, the way of looking at things is
7 to get involved in this new process where you are
8 getting notice and give it a try and see whether in
9 fact it works.

10 A. I can't agree with you more. I think
11 we do have instruments such as Tribal Councils, such as
12 the Indian Forestry Program and there could be other
13 instruments that could be created so that it helps that
14 process.

15 Q. You made a comment about notice that,
16 you know, maybe Bands -- notice is given to Bands which
17 are immediately adjacent to perhaps the operations.

18 Do you have any suggestions as to how one
19 might go about giving notice of timber management
20 plans, plans for the next five years?

21 How you might go about giving notice to
22 Indians specifically to make sure that all the Bands
23 get notice? Would it be a matter of sending a notice
24 to the Tribal Council or the Chief of the Tribal
25 Council as well, or are there some suggestions you have

1 got for that?

2 A. For the moment, if you are looking in
3 the Fort Frances management unit, for example, I think
4 that the Tribal Council for that area would be a good
5 instrument. There is a relationship now being created
6 between the Tribal Council and the local MNR. That's
7 one method.

8 The second method I guess is, continue
9 sending the notices, the written notices, and many of
10 us can't afford papers, so maybe not all of us will
11 receive that message or may not receive the notice that
12 has been sent to the band.

13 What I am trying to point out here is
14 that I think there has to be for the time being some
15 method within your organizations, either with Industry
16 or within the government, that signals that there is
17 someone that's there that we can talk to, that there is
18 someone that and elder can talk to, that we as an
19 organization can talk to, we as an individual can talk
20 to, we as a Band Council can talk to or whatever, but
21 it has to be an individual. We can't be talking to
22 several people.

23 Q. When you were talking about an
24 individual -- all right. As you are probably aware
25 there is a timber management plan prepared for every

1 management unit?

2 A. Mm-hmm.

3 Q. Every five years. There is usually a
4 forester who is probably involved more than anybody
5 else in preparing each of those timber management
6 plans.

7 If you were told who that person was; in
8 other words, if you got a notice that said there is a
9 timber management plan --

10 A. We do have that right now.

11 Q. So if you know who the forester is
12 and what his or her name is and where to get them, is
13 that the kind of person you want or is there somebody
14 else?

15 A. I guess there is something else to
16 that. In creating a relationship I think there has to
17 be some personal contact. People will allow you to
18 come on to a reserve today. They shouldn't have a few
19 years ago maybe, but today they allow you.

20 Q. The personal contact -- I am not
21 trying to deal with who should be dealing with that.

22 A. Okay.

23 Q. If the personal contact takes place
24 and the person who in fact is having that personal
25 contact with the Indian Band or communities is the

1 forester that has the responsibility for supervising
2 the preparation of the plan, is that an adequate person
3 for you to be dealing with in your eyes?

4 A. Yes. Then, at the same time, maybe
5 then we could develop the expertise that so that we can
6 help that individual understand what these plans mean.

7 I know that they are Bands and I have
8 heard them at Tribal Council and said: Yes, we just got
9 notice of a forest management plan that's adjacent to
10 us. But I'm not a forester and every time I go there I
11 see nothing but white people. Every time I walk in
12 everybody says: Oh, puts up their little crosses like
13 that and say, hey the Indian just walked in and there
14 is going to be a lot of trouble.

15 Q. There has been a suggestion by some
16 of the parties at the hearing, the Ministry of Natural
17 Resources being one of them, that they would be willing
18 to go to individual Indian communities with open houses
19 to explain -- you know, put the maps up and everything
20 and explain what is being planned for the area.

21 Is that something that you think would
22 improve --

23 A. It would improve it. Certainly it
24 would.

25 Q. Okay. That might be one way of

1 building up a little more trust?

2 A. That's right.

3 Q. You mentioned giving notice to the
4 Tribal Council in your area. I understand that there
5 are now three or proposed to be three --

6 A. There is one here in Kenora and --
7 yes.

8 Q. Are you able to speak on behalf of
9 those other areas? The question is this: In addition
10 to giving notice to individual Indian Bands or
11 communities who it appears might be affected, that in
12 addition there is always a notice that goes to the
13 Tribal Council--

14 A. Right.

15 Q. --of that area. Do you think that
16 would --

17 A. Perhaps to the Treaty organization
18 too as well.

19 Q. Okay. If that happened then, do you
20 feel that the Treaty organization or the Tribal Council
21 then would take it upon themselves then to make sure
22 that they got in touch with their various communities
23 and said: Look, we have got this notice, this may be
24 in your area.

25 A. Yes. I think that's a steppingstone,

1 yes.

2 Q. Okay. Now, I just want to ask you a
3 very short question about the unpopular poplar sawmill.
4 Who was it at the Ministry of Natural Resources that
5 suggested a poplar sawmill and when did that occur?

6 A. When? Let me give you some
7 background history. In the early 70s, we had a
8 portable sawmill and we had a second one. Most of our
9 operation was in making grain doors for the CN. So we
10 were sort of in a poplar operation and most of that
11 poplar came from our community within our reserve.
12 After we expanded the sawmill to a more modernized
13 sawmill with a kiln and dry and everything else.

14 Q. Which was when?

15 A. That was in the late 70s.

16 Q. Thank you.

17 A. Okay. Then our next -- at that time
18 the Indian Logging Program was in place. Through the
19 Indian Logging Program we had obtained this DCL in Crow
20 Lake and it didn't have perhaps the amount of sawlogs
21 that we could have. What it did have, it had a lot of
22 pulp wood.

23 Q. The sawlogs that you were looking for
24 in that area, were those poplar or were those --

25 A. No, they were --

1 Q. Red and white pine?

2 A. Red and white pine, yes.

3 Q. Okay.

4 A. But at the same time we have always
5 been told: Look, you start off as a poplar operation,
6 but CN no longer needed grain doors, they got more
7 modernized, started using plastic or something.

8 So we got into the DCL, but it did not
9 provide the sawlog material that we needed for our
10 sawmill. We were able to provide to Boise Cascade for
11 pulp wood. So we were still -- I guess still looking
12 for the opportunity of having some sustainable logs for
13 our sawmill.

14 In the meantime, it created another
15 problem for us because we had to finance a logging
16 operation and try and finance a sawmill at the same
17 time and if you don't have the credit at the bank
18 because you are an Indian or because you have the
19 operation on a reserve it was difficult for us.

20 Q. Now, the reason I got into all these
21 questions, that takes us up perhaps to close to the
22 present, but you said that the Ministry were
23 recommending poplar sawlog operations --

24 A. Sawmill operations.

25 Q. Sawmill operations. And then you

1 went on and said: MNR basically were doing that
2 because they wanted to see us go down the drain.

3 I find that hard to accept, the
4 suggestion that MNR were making a suggestion of that
5 nature.

6 A. We couldn't find -- it has been said
7 many times. In fact, (inaudible) was the minister at
8 that time. I have copies of letters that I wrote to
9 him and suggested to him: Look, what we are looking
10 for are sawlogs for our sawmill. What we are looking
11 for -- if we could cut those logs ourselves it would
12 create more jobs. Yes, that's the ideal situation.

13 We did a study in the Manitou management
14 area which is up the Dryden highway and we located 20
15 years of sawlog material in there.

16 Now, we weren't overly concerned. KBM
17 did the study for us, incidentally. KBM from Thunder
18 Bay. We weren't overly concerned about cutting that
19 wood, but it would have been an opportunity if we had
20 the opportunity of cutting that sawlog material because
21 we identified the red and white pine in the area.

22 In the meantime, because we couldn't
23 maintain financially a logging -- a pulp wood operation
24 and trying to extract pulp wood from that. At the same
25 time, Boise not accepting that if they didn't get the

1 whole tree they weren't taking anything.

2 In the meantime, trying to finance your
3 sawmill. We couldn't do it. At the same time, you
4 know, they said: Why don't you guys stay in the
5 poplar. Well, no one could show me where there was a
6 successful poplar operation.

7 Q. When was that suggestion made to you,
8 why don't you stay in the poplar?

9 A. In 1980.

10 Q. 1980. Was that made directly to you
11 by Leo?

12 A. Yes.

13 Q. And --

14 A. Well, as advice from -- in fact we
15 sat down and it was one of the districts managers at
16 that time.

17 Q. And you think that they said that
18 because they wanted you to go down the drain?

19 A. Well, there was no successful
20 operation that we could go.

21 Q. That's fine.

22 MR. FREIDIN: I have no further
23 questions.

24 Thank you very much, Chief Wilson. I
25 enjoyed discussing matters with you today and previous

1 days.

2 MADAM CHAIR: Thank you, Mr. Freidin.

3 Mr. Colborne?

4 MR. COLBORNE: No re-examination.

5 MADAM CHAIR: Thank you very much, Chief
6 Wilson. Have a safe trip home and a good rest. We
7 appreciate you coming to appear before the Board.

8 CHIEF WILSON: Thank you.

9 MADAM CHAIR: Thank you.

10 MR. COLBORNE: Paul Watts?

11 MADAM CHAIR: Excuse me, Mr. Colborne.

12 How long do you think we will be with Mr. Watts?

13 MR. COLBORNE: I will only be five
14 minutes.

15 MADAM CHAIR: Why didn't we --

16 MR. MARTEL: No, Mr. Watts.

17 MR. COLBORNE: I won't let him get a word
18 in edgewise.

19 MADAM CHAIR: All right. I think we are
20 going to have to adjourn at 3:45 so we can catch a
21 plane if any are flying.

22 Mr. Pascoe might check on that for us
23 right now.

24 Let's proceed and see how far we get.

25 MR. COLBORNE: Thank you.

1 Mr. Watts of course was with us as a
2 member of Panel 2. He has been worn. Mr. Watts has
3 already told us he is from Wabigoon. I think he has
4 shown us on the exhibit photomosaic where Wabigoon is.

5 DIRECT EXAMINATION BY MR. COLBORNE:

6 Q. Now, Mr. Watts, have you recently
7 looked over the information in the witness statement
8 regarding the Wabigoon Reserve?

9 MR. WATTS: A. Yes, I did.

10 Q. Are you familiar with the reserve,
11 particularly in terms of its connection with the forest
12 industry and any participation in it?

13 A. Yes, I am.

14 Q. Did you see any noticeable errors or
15 omissions in what you read?

16 A. There's not very much in there, but I
17 couldn't find anything.

18 Q. What's there, is it correct? Let me
19 just ask you, did you see any errors in it?

20 A. I didn't know about the case that's
21 mentioned here, the Catherine and Milling case. The
22 St. Catherine and Milling case. I didn't know anything
23 about that.

24 Q. Okay. Let me just exclude the
25 information in the first paragraph and ask you about

1 the rest of it, the whole three other paragraphs. Any
2 errors in there?

3 A. No, I couldn't see any.

4 Q. Okay. I won't ask you if there are
5 any omissions because obviously in three paragraphs it
6 would be impossible to give sufficient information
7 about a community.

8 You have mentioned previously the 1,500
9 cord operation which is off-reserve. Do you have any
10 participation with that yourself?

11 A. Yes, I do in a small way.

12 Q. What is that participation?

13 A. Cutting wood.

14 Q. Is it your information that the
15 members of the Wabigoon Band would like to have more
16 participation in the cutting side of the forest
17 industry; in other words, would like to cut some more
18 wood than 1,500 cords a year?

19 A. Yes. It has been brought up many
20 times.

21 Q. Do you know anything about what is
22 standing in the way of that?

23 A. To get access to larger tracts of
24 timber.

25 Q. Have there been efforts to gain

1 access to larger tracts that you are aware of?

2 A. Yes.

3 Q. What has happened in those cases?

4 A. We were told there isn't any
5 available.

6 Q. Now, is there wood that's suitable to
7 be harvested in the general vicinity of your reserve?

8 A. Not adjacent to it, but there is
9 within 20 miles.

10 Q. When you say 'not adjacent', what do
11 you mean by that?

12 A. Next to the boundaries, it's all been
13 cut out Dryden Paper, Great Lakes and Ried. All around
14 the community.

15 Q. All around the reserve?

16 A. Right.

17 Q. And when was that done? How recently
18 was that done?

19 A. Well, it has been done at least three
20 times since the reserve was established in 1873.

21 Q. Do I understand you correctly that if
22 you go about 20 miles out then you will find at least
23 some timber that's suitable for harvesting now?

24 A. Yes.

25 Q. How many members of the Band are

1 qualified to participate in a woodlands operation in
2 your estimate?

3 A. Around 30. Thirty some have
4 expressed interest in it.

5 Q. I think you said yesterday that there
6 were quite a number who have to share these 1,500
7 cords?

8 A. True.

9 Q. Other than the cutting operation, the
10 1,500 cord cutting operation, are there members of the
11 Wabigoon community that participate in tree planting or
12 fire fighting?

13 A. Tree planting yes, but fire fighting,
14 no.

15 Q. The tree planting, is that a big job
16 created or is it not?

17 A. No, it's not. It just lasts about
18 two weeks and that's it.

19 MR. COLBORNE: Those are my questions.
20 Thank you.

21 MADAM CHAIR: Mr. Cassidy?

22 MR. CASSIDY: Yes.

23 CROSS-EXAMINATION BY MR. CASSIDY:

24 Q. Mr. Watts, you indicated in the
25 witness statement or somebody indicated in the witness

1 statement at page 36 that the Band runs its own
2 off-reserve cutting operations of 1,500 cords per year
3 which was cut to 1,000 for 1990/91.

4 It is my information that the reason that
5 the cords have been cut to 1,000 is because the mill
6 demand has gone down?

7 A. That's true, yes.

8 Q. Is that correct?

9 A. Yes.

10 Q. In fact, all of the operators who
11 supply to the Dryden mill have had their quotas
12 reduced; is that correct?

13 A. Yes.

14 Q. And you are not suggesting that there
15 should be increased harvesting if there is no increased
16 demand?

17 A. Why would I?

18 Q. Right.

19 A. We're not going to cut the wood and
20 leave it in the bush.

21 Q. Right. I understand that you have
22 had cord volumes which your Band has fulfilled its
23 volumes and commitments to Canadians Pacific Forest
24 Products in the last four or five years?

25 A. Yes.

1 Q. You indicate that there has been
2 cutting on the Band's reserve forest and that, I take
3 it, was done with the permission and approval of the
4 Band over the years, since 1873; is that correct?

5 A. No. I think it was approval by
6 somebody else. Department of Indian Affairs.

7 Q. The federal department?

8 A. Right.

9 Q. Has the Band have any approvals --
10 has the Band every been allowed to approve or
11 disapprove of cutting on its reserve at any time?

12 A. No.

13 Q. So those decisions have always been
14 made by the federal department of Indian Affairs; is
15 that correct?

16 A. True.

17 Q. They have never been made by the
18 Ministry of Natural Resources, the proponent here; is
19 that correct?

20 A. I'm not sure.

21 Q. Thank you.

22 MR. FREIDIN: Mr. Cassidy, you said 1873.
23 I understood you meant 1973.

24 MR. CASSIDY: No, I meant 1873. He said
25 it three times, since 1873.

1 MR. WATTS: The first time was I think
2 ties were cut on reserve for the railroad.

3 MR. FREIDIN: Sorry.

4 MR. CASSIDY: Those are my questions.

5 MADAM CHAIR: Thank you, Mr. Cassidy.

6 Mr. Freidin?

7 MS. GILLESPIE: I have no questions.

8 CROSS-EXAMINATION BY MR. FREIDIN:

9 Q. When was the last time they cut
10 around the reserve? When was the last time?

11 MR. CASSIDY: I meant on the reserve not
12 around.

13 MR. WATTS: In the 50s and 60s.

14 MR. FREIDIN: Q. I am dealing with when
15 you were cutting on Crown land around the reserve. The
16 last time was in the 1950's?

17 MR. WATTS: A. Yes.

18 Q. Thank you.

19 MR. COLBORNE: I'm quite confused. I
20 don't want to interrupt Mr. Freidin, but there seemed
21 to be complete illogic in some of the questions and
22 answers and I wonder if you could go through it a
23 little more slowly.

24 MR. FREIDIN: I am trying to get out of
25 here today.

1 MR. COLBORNE: Just so the record will be
2 clear.

3 MR. FREIDIN: Q. I understood your
4 evidence to be that in the past the area outside the
5 reserve had been cut?

6 MR. WATTS: A. Right.

7 Q. And as a result, if you wanted to go
8 outside the reserve to get merchantable timber you had
9 to go about 20 miles away from the reserve?

10 A. Yes true.

11 Q. I understand your answer to my
12 earlier question to be that the last time there was
13 cutting sort of outside a reserve, say, within that 20
14 miles was in the 1950s?

15 A. Right.

16 MR. FREIDIN: Thank you very much. Those
17 are my questions.

18 MADAM CHAIR: Thank you, Mr. Freidin.

19 MR. COLBORNE: No re-examination. Thank
20 you.

21 MADAM CHAIR: Thank you, Mr. Watts. You
22 have the distinction of being the fastest witness of
23 the last three days. Congratulations.

24 MR. WATTS: My Chief told me, don't say
25 nothing.

1 MADAM CHAIR: Thank you very much, Mr.
2 Watts.

3 Mr. Colborne, we will adjourn the hearing
4 and we will reconvene in Fort Frances on Monday at --
5 is it 1:30? 1:30 on Monday at the Red Dog Inn and we
6 will be hearing from more of your witnesses from Panel
7 3.

8 MR. COLBORNE: A continuation of Panel 3
9 at that time, yes.

10 MADAM CHAIR: Do you know how many
11 witnesses there might be on Monday for Panel 3, Mr.
12 Colborne?

13 MR. CASSIDY: And who they might be.

14 MR. COLBORNE: I don't, but I will know
15 on Friday and I will make sure that the three other
16 counsel who are here now with me will know who my
17 witnesses will be so they can prepare.

18 MR. CASSIDY: Thank you.

19 MADAM CHAIR: Thank you very much, Mr.
20 Colborne.

21
22 ---Whereupon the hearing was adjourned at 3:45 p.m., to
23 be reconvened on Monday, June 3, 1991 commencing at
24 1:30 p.m. in Kenora, Ontario.

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